

SOUTH DAKOTA ASSOCIATION OF TOWNS AND TOWNSHIPS

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FALL 2023

Plan to Attend the Annual Meeting Dec. 7th & 8th

The South Dakota Association of Towns and Townships, along with SD LTAP
(Local Transportation Assistance Program) has planned a wonderful program of
education, dynamic speakers, good food and some fun too!
We have selected the beautiful space hosted by the Arrowwood Resort & Conference
Center at Cedar Shore in Oacoma..

*Registration begins at 8:00 AM. The program begins at 9:00 AM.

Registration for this event is on the next page. You may also register and pay online at our website: sdtownships.com

Guest Speaker Lineup....

Thursday

9:00 am SDLTAP Road Show @ Greg Vavra & team

9:00 am Clerk & Treasurer open discussion

1:15 pm PUC-Chris Nelson-Permitting Processes

2:00 pm SDSU Extension-The Cedar Tree Invasion

3:00 pm Emergency Mgmt-Amanda Vander Platts

4:00 pm Township Structures & RAIF Panel Discussion

<u>Friday</u>

8:15 am Opening Ceremony

8:45 am Your Role as a Township Officer

9:15 am Insurance & Liability Matters-Tami Schwebach

9:45 am Dept of Revenue- Fuel Excise Tax for Townships

10:45 am Game Fish & Parks-Habitat Projects

11:30 am Attorney General Marty Jackley

2:00 pm Annual Business Meeting & Bond Alliance

Check the SDATAT Website for the complete program

The Arrowwood at Cedar Shores 1500 Shoreline Drive/ Oacoma

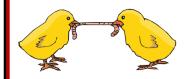


REGISTER BY

November 10th to qualify for the

EARLY BIRD \$20 cash drawings sponsored by

Tami Schwebach Insurance



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President's Corner

By Peter Fahlberg

The transition to fall harvest activity is well underway in many areas, including my farm in southeast South Dakota. Township activity here includes ongoing gravel blading, getting the vegetation mowed on road shoulders, spraying for perennial weeds, and (ugh) looking over snow removal equipment. Recent rains help the gravel spread and pack nicely so roads can sustain harvest traffic. Now all we need is for the weather to cooperate so the ground in the fields will dry enough to keep the dirt in the fields and mud off the roads.

Hopefully everyone got their 5 year plan submitted by the end of August for RAIF eligibility. Although counties have been doing this for many years, it is a new thing for townships, and considerable thought is needed to make it work. The next deadline is at the end of October, when the project application is due.

Do take some time and put all the numbers together, there is a spreadsheet available to use on the SDATAT website (sdtownships.com) or you can print out the paper form that is also available. The application needs to go to your county highway department

office and the staff will work through all the applications received to prepare the county commission for a vote on which applications receive RAIF grant funding.

The SDATAT board is hoping for a large volume of applications submitted, for two reasons. First, we would like to see all the RAIF money disbursed, as the law requires that unused funds be returned to the state. The money is there for the townships to use, so it is important that townships submit enough project applications to use up all the money allocated.

Secondly, there may be potential for more applications than funding can cover. We plan to monitor that situation and believe that a group of unfunded applications would be helpful for efforts to secure additional funding for the RAIF program in future years. As is, funding for the RAIF program ends with the allocation in July of 2024.

Your SDATAT board believes RAIF needs to be extended and plans to pursue the avenues available to do so. It is no secret that the entire highway and road system in South Dakota could use a lot more money than is currently allocated, so the SDATAT board will need to work alongside a huge ask for road dollars everywhere. We believe better rural roads will make all of South Dakota a better place to live and carry out business activity.



KNOW YOUR TOWNSHIP QUIZ

Answers on page 10

- 1. What does ROW stand for?
- 2. What is the width of a section line ROW and minimum width of a township road?
- 3. Who is responsible for bridge maintenance?
- 4. How often are township culverts to be inspected?
- 5. Name three classifications of road ROW maintenance.
- 6. When is the clerk and treasurer allowed to vote on township issues?
- 7. Minutes of the township are to be kept for how many years?
- 8. What is the date of the Annual Meeting and how is the date changed?
- 9. What constitutes a "regular meeting of a township"?



SOUTH DAKOTA ASSOCIATON OF TOWNS AND TOWNSHIPS(SDATAT) ISSN 1072-2505

Published quarterly to provide information, education and technical assistance

to local governments, by the

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Mike Vande Weerd, TreasurerDistrict 9	Annette Steilen, Director District 10	VacantDistrict 1
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Qualify for Early Bird Cash Drawings!! Register by November 10th

SDATAT ANNUAL MEETING REGISTRATION FORM * DEC 7 & 8, 2023

Name	Positio	on
	Township/Sm Town	
Address	City/State/Z	ip
Email	ТОТ	AL Included \$
	Add	\$10.00 late fee after 11/10/2023
Ra	te for Townships Board, Small Towns	and Spouses Only:
X the meals you should b	e served. (Paying online at sdtownships.co	m will include a processing fee)
☐ Both Day 1 & Day 2 -	\$50 □ Lunch □ Evening Banquet □ B	Breakfast □ Lunch
☐ Day 1 Only - \$40	☐ Lunch ☐ Evening Banquet	
☐ Day 2 Only - \$30	☐ Breakfast ☐ Lunch	
☐ Spouse Program- \$15	& PAY your regular \$50 registration fee. N	Name
	ve should plan for you: ☐ Lunch ☐ Evening	
Rate (for other than Township and Small Tow	vn Board and Spouses:
X the meals you should b	e served. (Paying online at sdtownships.c	om will include a processing fee)
☐ \$75- Both Day 1 & Da	ay 2 🛘 Lunch 🗘 Breakfast 🗸 Lunch	all breaks included
☐ \$40-Day 1 add evenin	g banquet	
☐ \$30- Day 1 Only	☐ Lunch all breaks are inclu	ıded
☐ \$30-Day 2 Only	☐ Lunch all breaks are inclu	ıded
	Send Registration & paymer	at to:
	SDATAT Annual Meeting	
	PO Box 903	0
	Huron, SD 57350	
<u>Hotel Reservati</u>	ons under the SDATAT block are l	held til November 10th, 2023
SDATA	T will pay \$25 towards members (st Thursday December 7th evening	-
	Arrowwood Resort at Cedar	
	1500 Shoreline Drive / Oacoma, SI	

For Hotel Room Reservations Call: 605 734 6376
Ask for SDATAT block

Workers Compensation What Townships Need to Know.

If your township has a workers compensation policy, and an employee or board member is injured, that injury needs to be reported to the township immediately, and the township then needs to start a claim right away. South Dakota law reads as follows:

2022 South Dakota Codified Laws
Title 62 - Workers' Compensation
Chapter 07 - Claims Procedure
Section 62-7-10 - Notice to employer of injuryCondition precedent to compensation.
Universal Citation: SD Codified L § 62-7-10 (2022)

62-7-10. Notice to employer of injury--Condition precedent to compensation.

An employee who claims compensation for an injury shall immediately, or as soon thereafter as practical, notify the employer of the occurrence of the injury. Written notice of the injury shall be provided to the employer no later than three business days after its occurrence. The notice need not be in any particular form but must advise the employer of when, where, and how the injury occurred. Failure to give notice as required by this section prohibits a claim for compensation under this title unless the employee or the employee's representative can show:

- (1) The employer or the employer's representative had actual knowledge of the injury; or
- (2) The employer was given written notice after the date of the injury and the employee had good cause for failing to give written notice within the three business-day period, which determination shall be liberally construed in favor of the employee.

Source: SDC 1939, §64.0601; SL 1994, ch 396, §12.

So it's extremely important that the employee or board member reports the injury to the supervisor or clerk right

By Tami Schwebach, Agent Schwebach Insurance Agency

away, AND once reported, the injury also needs to be reported to the insurance company that provides coverage. If an employee fails to report an incident, that could jeopardize coverage under the workers compensation policy. If a workplace injury is not reported on time, it becomes more difficult to verify details of the incident. The location and circumstances need to be identified, and it needs to be shown that the injury did happen while at work for the township.

EMC Insurance has given leeway in some workers compensation claims and provided coverage even though the injury wasn't reported in a timely matter. But they have also denied a workers compensation claim, as the incident was reported so long after the injury, it could not be determined 100% that the injury happened while working for the township. As mentioned in the above law, South Dakota Codified Law allows a workers compensation carrier to deny a claim if it wasn't reported in time.

Even a minor slip and fall injury can have lasting effects. Strained muscles and broken bones can show up later and require medical treatment. So if a grader operator, supervisor, or anyone else employed by the township is injured "on the job", even if they feel it is a minor incident, be sure to follow proper reporting instructions.

While on the subject of workers compensation, there is no law that states a township must carry workers compensation insurance, but as an employer, a township is liable for injuries its employees receive while on the job. If an employee is injured while performing his or her duties, the township is liable, and if there is no workers compensation policy in force, the township is self-insured and may have to pay the benefits to the employee. It is important to note that a township's general liability insurance does not provide coverage for someone who is eligible to receive work comp (Continued on Page 5)

INSURING TOWNS AND TOWNSHIPS



Schwebach Insurance Agency 402 Garfield, Dell Rapids, SD 57022

Safety Dividend Group Plan Approved By Your Association

1-800-657-8005

Safety Dividend Plan Available Through All Employers Mutual Agents

Underwritten by



Insurance Companies

Continued from page 4- Workers Comp

benefits. And a township can't claim that its employee was negligent or lazy or careless and caused his own injury. Any employer loses these common law defenses for work place injuries.

Fortunately, most township board members go about their duties and are never injured on the job, but workers compensation coverage is definitely something to be considered. And if the township does have such a policy, be sure to report any incidents and injuries immediately!





AFFORDABLE BONDING THROUGH S.D. BOND ALLIANCE

Bond your clerks, treasurers or finance officers, paying as little as $\underline{\text{one time}}$ \$600 premium.

Bonding will continue without further premium as long as membership with SDATAT is maintained.

Contact the South Dakota Association of Towns and Townships office for more information:

605-353-1439 sdatat@sdtownships.com www.sdtownships.com

HAVE YOU OBTAINED THE UEI NUMBER FOR YOUR TOWNSHIP YET?

IF NOT, CONTACT THE SDATAT OFFICE AND WE CAN EMAIL TO YOU THE STEP BY STEP PROCESS

605 353 1439 OR SDATAT@SDTOWNSHIPS.COM

Attorney General Jackley Announces Availability Of New Consumer Alert System

PIERRE, S.D. – South Dakota Attorney General Marty Jackley announces that the public can now receive Consumer Alerts via email from the Attorney General's Consumer Protection Division. The new system became operational Wednesday.

"This new alert system is another way that the Attorney General's Office and its Consumer Protection Division are working to keep people aware of the most recent scams that affect them or their loved ones," said Attorney General Jackley. "This alert system will provide the subscribers with information about consumer scams as well as tips on how to protect against scams."

People can register for the alerts at the Consumer Protection Division's website at www.consumer.sd.gov or by stopping at the Division's booth in the Expo Building at the State Fair this week in Huron. No email addresses will be shared or sold to a third party.

People are reminded to contact the Attorney General's Consumer Protection Division at 1-800-300-1986 or consumerhelp@state.sd.us if they have any information about a possible consumer scam or fraud.

LEGAL INSIGHTS

Responding to the Urban to Rural Migration

Over the last few years the trend in sales of old homesteads or a small parcel for the construction of new homes has continued. Townships have asked what their responsibility is pertaining to servicing these homes.

Townships have the authority per SDCL Chapter 31-13 to determine the level of maintenance on those section lines for which they have responsibility. Those designations are full maintenance, minimum maintenance and no maintenance. Simply because a party elects to build a new house or remodel a house on an existing section line does not mean the township has to immediately declare it a full maintenance road and build it up. In most cases, it would take much more than the increased tax revenue generated by a new home for many years to cover the cost of upgrading a road to full maintenance let alone the added routine maintenance costs.

The township board has the responsibility to designate the level of maintenance each year at the annual meeting pursuant to SDCL 31-13-1.3 A map should be prepared showing the level of maintenance of each road within the township road system. The designation of individual roads maybe done at any time of year but the map needs to be adopted by the board at its annual meeting. (This can be done in conjunction with the annual meeting of the township.) The township is then required to provide the map to the county auditor. It is my experience this is not done by all townships on a yearly basis. Inquiries have shown some counties only get these maps every few years. Technically, this is not in compliance with the law.

I suspect there are two reasons for not submitting the maps on a yearly basis. The first is in most cases there are no changes. Why send in a map if it is identical to the one submitted last year, the year before, or years before? The second reason is there is process in which the state contracts with the regional planning districts to obtain the same information. The planning districts generally send the prior map they have to the townships asking the current designations of their roads. Again, many times there are no changes of the maps are so marked and returned. It is my understanding these maps are submitted to the state where they are transferred onto other maps and then submitted to the Federal Government. I'm assuming this may have something to do with the allocation of federal highway funds.

My suggestion is to follow the requirements of SDCL Chapter 31-13. That includes reviewing the map yearly, making sure the proper signage for those roads designated minimum or no maintenance is in place, provide a copy of the map annually to the county and comply with request of the planning district/state. Duplicate copies of this map will suffice for the records of the township, county and state. My second suggestion is if you have not already done so, review your existing map. If there are roads that are being treated as minimum or no maintenance roads, but have not been designated as such, you do so at this time and sign them as required. It is these roads which will cause you the most problems if a request is made to treat them as full maintenance.

If that is done, there is no reason a township may, when responding to a request to upgrade a road, consider the history of that road, the cost of upgrading, the use of the road and any other factor the board feels appropriate. Simply because a party believes the road needs to be a bus route or mail route does not mean the township must upgrade it to full maintenance.

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JASTDesignLLC@outlook.com

Reseeding / Removal

Township Officer Education, Wisdom & Knowledge

By Greg Vavra, SDLTAP Program Manager

For many years SDLTAP has been part of the Towns and Townships annual conference providing education to its attendees. This year's annual conference in Oacoma will be another opportunity to learn about all your road and culvert issues that you face daily.

As a new or longtime board member, it is your responsibility and obligation to attend meetings and learn the proper way to take care of your valuable assets and in some cases keep you out of the court room. There is much to learn at the annual conference to make you a successful board member.

You will gain knowledge of important laws regarding your township. You can also find your answers to items like opt outs, ROW, vacation of roadways, Rural Access Infrastruc-

ture fund and many other important topics. Your role as a board member will require you to be knowledgeable in many areas that you may not be aware of.

Serving as a board member can be very rewarding, but in some cases stressful as well. The more you know about townships and how to run them professionally and financially, the easier your job will be.

I hope you can all join us in Oacoma at the Cedar Shores Conference Center for an educational adventure and some networking with fellow friends from the past and the future.

We look forward to seeing you December 7-8 in Oacoma, SD. Until then, please reach out to us with any road and culvert questions you may have. SDLTAP 1-800-422-0129

Greg Vavra Program Manager Mobile (605) 695-0901 gregory.vavra@sdstate.edu

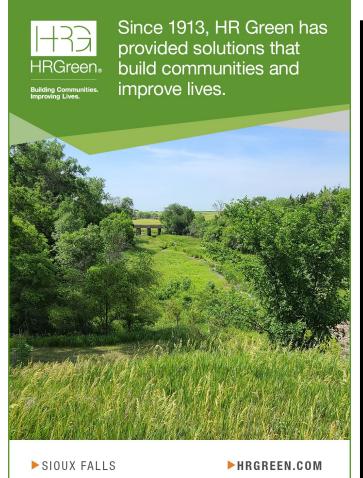
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Cliff Reuer Technical Assistance Provider Mobile (605) 209-8932 cliff.reuer@state.sd.us



REMINDER: UPCOMING REQUIRED MEETINGS

<u>8-5-1</u>. Time and place of regular meetings.

The township board of supervisors shall hold regular meetings on the last Tuesday of February, the last Tuesday of March, and the last Tuesday of October, of each year. The meetings shall be held at the office of the township clerk or the location established in §8-3-1 at a time determined by the board.

If any two supervisors submit a written statement signed by them not less than twelve days before the meeting requesting that the next regular meeting be held at a different time, the township clerk shall give notice of the time and place of the meeting as provided by § 8-3-1.

In case of inclement weather, any required township meeting may be rescheduled for the following Tuesday at the same place and location without additional publication in the newspaper and meeting requirements provided in § 1-25-1.1.

How to Apply for your RAIF grant

...... Speaking of **RAIF** Rural Access Infrastructure Fund

Most townships in South Dakota have culverts that, to replace, take a significant portion of your budget. SDATAT sought funding to address this issue and the Rural Access Infrastructure fund was approved by the SD Legislature to offset some of these costs, keep roads safe and water moving through out the state.

This grant is available to both townships and unorganized townships in South Dakota. A total of \$31 million has been allocated to this grant since 2021 and distributed between 66 counties based upon reported and inventoried structures. The current distribution is identified on the following page.

Key Points to Know

Of the \$22.66 million Grant Money Allocated, so far:

- * \$3 million was used to inventory of the entire state of culverts over 16 sq. foot (60") and small bridges under 20' in length in 2021
- * An additional \$3 million was distributed in 2022 together with the first of 3- \$8.3 million
- * July 2023 and again in July 2024 each will be allocated \$8.3 million

How to Qualify for this Grant:

- * Locate the structures for your township that were inventoried by the process below.
- * Go to sdtownships.com -> under RAIF tab-> Map and Inventory Access -> Options-Filter-Add Expression -> Item #1 County Name -> Add Expression -> Item #2 Township Name
- * The structure <u>must be on this list</u>
- * The structure must be on a full maintenance road
- * The township <u>must have **either**</u> a current Opt Out or funds requested from the Road and Bridge Levy (known as the Secondary Road Captial Improvement Fund (up to 50cents per thousand)).

How to Apply for this Grant: (forms are found at sdtownship.com or your County Hwy Supt.)

- * Before August 31st, Turn in a <u>structure improvement plan</u> identifying the priority of structures you wish to replace and intend to apply for the RAIF grant over the next 5 years.
- * Turn in your <u>application</u> to your County Hwy Supt. Before October 31st.

For Further Assistance contact: SDATAT Office: 605 353 1439 SDLTAP: 800 422 0129 or your County Hwy. Dept.

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Use this Form at Your Next Annual Meeting When You Have a Voter You Question as Being A Resident of the Township.

Affidavit of Voter Registration and Residence

This personal identification affidavit shall be in the following form and is to be signed by a voter at the polling place who is challenged as being unqualified when offering to vote at any township election or upon any question arising at any township meeting relating to a person's voting eligibility. The judges, or township clerk, if no judges are present, must have the person sign an affidavit attesting to the person's qualification to vote.

Located in	County,	Township
A person who makes a fals	se affirmation is guilty of a class 2 misdemeanor	pursuant to § 8-3-9.
er signature	Date	

Snow Removal & School Routes

<u>31-13-1.3</u>. Designation of full and minimum maintenance roads at annual meeting--Map. The board shall, at its annual meeting, designate which township roads are full maintenance roads and which are minimum maintenance roads. The board of township supervisors shall publish any resolution designating a township road as minimum maintenance if the road is a school route. The designation is final, after a lapse of thirty days, unless appealed as provided in chapter <u>31-3</u>. Following its annual meeting, the board shall submit to the county auditor an official map showing each road on the township road system, including any road designated as a minimum maintenance road.

<u>31-13-29</u>. Authority of township to open snowbound roads used for school bus routes. When any highway within any township is regularly traveled by a bus or other motor vehicle used for free transportation of school children, the township board may, in its discretion, open snowbound roads and keep them passable for such vehicles. Such expense shall be paid from the general road fund.

Note: Be sure to contact the **School District, Post Office and Emergency Services** of changes along with proper signage.

Notice to the Traveling Public

<u>31-32-10</u>. Duty of governing body to give notice of dangerous road--Time for notice--Guards--Guards along abandoned roadway--Violation as petty offense.

If any highway, culvert, or bridge is damaged by flood, fire or other cause, to the extent that it <a href="emailto:em



Call 911 to alert emergency responders 24 hours ahead if your township road work requires it be closed to traffic.

Upsizing or Downsizing a Culvert

With upsizing or downsizing it takes a couple of steps that should be followed:

1. Obtaining a permit:

- If your county has a drainage board, contact for direction.
- If not, call the US Army Corps of Engineers and ask if you need a permit. They maintain a Blue Line map.
- The Corp of Engineers can be called at 605 224 8531.
- They may request photos and locations up and downstream
- If a permit is needed, most qualify for a simplified process
- Expect to take between 30-60 days

If it doesn't show up on their Blue Line map, the township supervisors would defer to the County Drainage Board. If the County Drainage Board doesn't exist, then the culvert determination lies within the authority of the Board of Supervisors.

2. Figuring Out Size of Pipe Needed:

- A StreamStats (Watershed) simple study can be taken by a consultant.
- You could contact your county highway dept and see who they are using.

Supervisors are charged with maintaining the natural flow of water and not inhibiting the natural flow of water. The addition of a culvert should simply support the natural flow of water.

When these steps are neglected, the township is opened up for a possible lawsuit. Many times drainage and water can cause a lot of controversy, since you may either hold back or increase water flow. It is best to stay with original size, but sometimes the land use changes or previous culvert was incorrectly sized.

Townships should not get involved with private land owner drainage issues!

- ...ANSWERS to KNOW YOUR TOWNSHIP Quiz....

 1. Right of Way

 2. 66 feet SDCL 31-18-2 & not less than 20" SDCL 31-13-4

 3. The County SDCL 31-14-2

 4. Supervisors are to inspect culverts annually and document their condition SDCL 31-14-33

 5. Full, Minimum and No Maintenance SDCL 31-13-1.3, .4

 6. The three supervisors are the only voting members at regular township meetings. SDCL 8-5-3; SDCL 8-4-8, 10,11

 7. Minutes are to be kept indefinitely. SDCL 8-6-4

 8. The township annual meeting is the first Tuesday of March and can only be changed for inclement weather, which is automatically the following Tuesday without need to further advertise. SDCL 8-3-1

 9. Any meeting of two supervisors constitute a quorum.

 QUESTIONS ABOUT RETAINING TOWNSHIPS RECORDS?

QUESTIONS ABOUT RETAINING TOWNSHIPS RECORDS?

SDATAT receives phone calls questioning how long records need to be kept. A records retention and destruction schedule is available through the state of South Dakota which was developed by a collaborative effort with SDATAT in 1991. the guide identifies the "minimum" retention codified law 1-27-18 requires local governing bodies to implement in their records management. There are a few steps involved to use this manual.

- The township must adopt this manual as it's records management policy at its meeting.
- You may then immediately proceed to dispose of records using the guide with a couple exceptions.
- The clerk must retain a permanent list of all records destroyed pursuant to SDCL 1-27-19. (Create a journal in 3 ring binder)
- The Administrative Rule 24:52:11:04 requires permission from the state archivist for advisement on records over 50 years old and records required to be kept permanently, which are minutes, annual reports, maps and photographs.

https://boa.sd.gov/central-services/records-management-polSubRetentionManuals.aspx

Or TYPE INTO SEARCH ENGINE: South Dakota Bureau of Records Management

- Political Subdivisions Records Retention Manual
- South Dakota Townships Retention Manual 1991

SDATAT 40+ YEAR RECIPIENT AWARDS

Small town and township board members who have served a minimum of 40 consecutive years and are currently serving on their town/township board are eligible for the SDATAT Service Award (if they have not been previously recognized). The awards will be presented during the SDATAT Annual Meeting to be held in Chamberlain SD, Dec. 7th and 8th, 2023. The Awards Luncheon will take place on Friday, December 8th after lunch.

Please include all information on the application form and include other interesting things you would like included in your biography such as children and grandchildren and/or other accomplishments.

Please send this form, *along with a picture*, to SDATAT, PO Box 903, Huron, SD 57350 or email to: sdatat@sdtownships.com - NO LATER THAN NOVEMBER 10, 2023

Name:	
	Phone:
Email_	Cell:
County:	Township:
Position on Board:	Since(Year):
Spouse:	Occupation:
Will you be present to receive your award? Yes / No / Other Person	
Name of your children:	
Number of grandchildren (great grandchildren?):	
Are you active members of any other organization?	
Do you have any other accomplishments and/or awards you would like to have mentioned?	

Please attach picture and let us know if it is to be returned.
++You and your spouse will be honored with free Friday registration++

If you also attend Thursday, you should only pay the registration fee of \$40.

South Dakota Association of Towns and Townships PO Box 903 Huron, SD 57350

Prsrt Std U.S. Postage PAID Permit No. 13 Huron, SD 57350



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MILBANK, SOUTH DAKOTA 57252

PHONE#800-743-2972

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We have signs and barricades available for sale and rent.

Traffic Solutions Inc. has over 75 years of combined services and offer superior products across the entire Midwest.

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Lonnie Heibult 605 360 4958 Sam Wurtz 605 360 2497 Blaine Weippert 605 941 5832

