

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

381P0016

HOUSE BILL NO. 1007

Introduced by: Representatives Pitts, Buckingham, Cutler, Feinstein, Kirkeby, Nelson, Thompson, Vehle, and Weems and Senators Olson (Ed) and Hoerth at the request of the Department of Revenue Agency Review Committee

1 FOR AN ACT ENTITLED, An Act to make form and style revisions to certain taxation and
2 revenue statutes.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 10-1-3 be amended to read as follows:

5 10-1-3. The secretary of revenue and regulation shall devote ~~his~~ full time to the performance
6 of ~~his~~ the duties of the office and ~~shall~~ may hold no other office or position of profit. ~~He~~ The
7 secretary shall be paid a salary to be determined by law. ~~He~~ The secretary shall make an annual
8 report to the Governor in the manner provided by law for annual reports of state officers. Before
9 entering upon the discharge of ~~his~~ the duties of the office, the secretary shall take and subscribe
10 the oath required by section 3 of article XXI of the Constitution and give bond to the state in the
11 penal sum of five thousand dollars conditioned for the faithful performance of the duties of ~~his~~
12 the office and for an accounting of all money and other property coming into ~~his~~ the secretary's
13 hands or under ~~his~~ the secretary's control, ~~and file the same.~~ The secretary shall file the bond
14 with the secretary of state. The form of the bond shall be approved by the attorney general and



1 the sufficiency ~~thereof~~ of the bond by the Governor, ~~and the premium therefor~~. The premium
2 for the bond shall be paid by the state.

3 Section 2. That § 10-1-6 be amended to read as follows:

4 10-1-6. The secretary of revenue and regulation ~~is empowered to~~ may establish ~~such~~
5 divisions within the Department of Revenue and Regulation as ~~may be~~ necessary for the proper
6 functioning ~~thereof~~, of the department and shall prescribe, assign, and delegate the powers,
7 duties, and functions of each division ~~so established~~. ~~He~~. The secretary may appoint one or more
8 directors and deputy directors for each of ~~such~~ the divisions to serve at ~~his~~ the secretary's
9 pleasure, ~~and~~. The secretary may employ such clerical and other employees and assistants as ~~he~~
10 ~~may deem~~ the secretary deems necessary for the proper transaction of the business of the
11 department and ~~the several divisions which he may establish and to its~~ divisions, and the
12 secretary may fix their salaries, except as otherwise provided by law.

13 Section 3. That § 10-1-7 be amended to read as follows:

14 10-1-7. Directors of the respective divisions shall be appointed by the secretary of the
15 Department of Revenue and Regulation and serve at the pleasure of the secretary. The directors
16 shall devote their full time to their duties and ~~shall~~ may hold no other office or position of profit.
17 Before entering upon the duties of their office, the directors and deputies shall take and
18 subscribe the oath required by S.D. Const., Art. XXI, § 3 and give bond to the state in like
19 manner and form as the secretary, and file the ~~same~~ bond in the Office of the Secretary of State.
20 ~~Such bond or bonds~~ The form of the bond shall be approved ~~as to form~~ by the attorney general
21 and ~~as to~~ the sufficiency of the bond by the Governor, ~~the~~. The premium therefor to for the bond
22 shall be paid by the state.

23 Section 4. That § 10-1-10 be amended to read as follows:

24 10-1-10. The attorney general shall ~~at all times, when,~~ if requested, give the Department of

1 Revenue and Regulation such counsel and advice as ~~they~~ the department may from time to time
2 require; ~~and it shall be his duty to.~~ The attorney general shall institute and prosecute, ~~whenever~~
3 if requested by the secretary of revenue and regulation, any ~~and all suits which~~ suit that the
4 secretary ~~may deem it~~ deems expedient and proper to institute, ~~and he.~~ The attorney general
5 shall render to the secretary such counsel, advice, and opinions, in writing ~~when~~ if requested,
6 as are necessary to carry out the provisions of this chapter or any law of this state, ~~according to~~
7 ~~the true intent and meaning thereof.~~

8 Section 5. That § 10-1-12 be amended to read as follows:

9 10-1-12. ~~It shall be the duty of the~~ The state's attorney of any county in which suit is
10 instituted; or prosecuted, ~~to~~ shall aid in the prosecution of the ~~same~~ suit to a final issue upon the
11 request of the secretary of revenue and regulation or the attorney general.

12 Section 6. That § 10-1-18 be amended to read as follows:

13 10-1-18. ~~It shall be the duty of the~~ The secretary of revenue and regulation ~~and he shall have~~
14 ~~power to~~ investigate the work of all directors of equalization and all taxing officers; in the
15 assessment, equalization, and taxation of all property subject to taxation, ~~for which purpose he~~
16 ~~or any of his agents or assistants.~~ The secretary may visit any county in the state for such
17 purposes.

18 Section 7. That § 10-1-21 be amended to read as follows:

19 10-1-21. The secretary of revenue and regulation may order the reassessment of real property
20 of any class; in any assessment district, ~~when~~ if, in the judgment of the secretary, such
21 reassessment is advisable or necessary, ~~to the end that any and all classes of property in such~~ in
22 order to ensure that all classes of property in the assessment district ~~shall be~~ are assessed in
23 compliance with law, ~~and for.~~ For that purpose, the secretary may require the director of
24 equalization making the assessment to make ~~such~~ the reassessment.

1 Section 8. That § 10-1-22 be amended to read as follows:

2 10-1-22. In making any reassessment pursuant to § 10-1-21, the director of equalization shall
3 ~~proceed to~~ examine and reassess the property and shall duplicate the lists of such reassessments
4 in such forms as the secretary of revenue and regulation ~~may prescribe. He~~ prescribes. The
5 director of equalization shall file both copies of ~~such~~ the list with the secretary within the time
6 ~~to be~~ designated by the secretary.

7 Section 9. That § 10-1-23 be amended to read as follows:

8 10-1-23. Upon the filing of reassessment lists pursuant to § 10-1-22, the secretary of revenue
9 and regulation shall examine, equalize, and correct ~~such~~ the reassessment so as to conform
10 substantially with the assessment of like property throughout the state, ~~and. The secretary shall~~
11 transmit to the county auditor of the county ~~wherein such~~ in which the reassessment was ~~so~~
12 made one copy thereof, as so corrected and equalized. Such lists shall for all purposes supersede
13 corrected and equalized copy of the reassessment. The reassessment list for all purposes
14 supersedes the original assessment for ~~such~~ the year upon ~~such~~ the property ~~and the county~~
15 ~~auditor upon receipt thereof. Upon receipt of the reassessment list, the county auditor shall~~
16 extend and levy against such property so reassessed the taxes thereon the taxes on the reassessed
17 property for ~~such~~ the year according to ~~such~~ the reassessment, in the same manner as though
18 ~~such list was~~ the list were the original list of ~~such~~ the property, ~~but nothing in such. However,~~
19 nothing in the reassessment proceedings ~~shall be construed to prevent~~ prevents any person
20 feeling aggrieved ~~thereby~~ by the reassessment proceedings from appealing to the secretary of
21 revenue and regulation.

22 Section 10. That § 10-1-24 be amended to read as follows:

23 10-1-24. ~~It shall be the duty of the secretary of revenue and regulation and he shall have~~
24 ~~power to~~ The secretary of revenue and regulation shall require county auditors to place upon the

1 assessment rolls property ~~which may be that is~~ discovered to have for any reason, in whole or
2 in part, escaped assessment and taxation in the current or previous years.

3 Section 11. That § 10-1-25 be amended to read as follows:

4 10-1-25. ~~It shall be the duty of the secretary of revenue and regulation and he shall have~~
5 ~~power to examine into all cases where~~ The secretary of revenue and regulation shall examine
6 all cases in which evasions or violations of the laws of this state relating to the assessment and
7 taxation of property are complained of or discovered, ~~and into.~~ The secretary shall examine all
8 cases ~~where~~ in which property subject to taxation has not been assessed; or has been
9 fraudulently; or for any reason; improperly or unequally assessed; or in which the laws in any
10 manner have been evaded or violated, ~~and to cause to be instituted such proceedings as will.~~ The
11 secretary shall institute proceedings to remedy improper or negligent administration of the laws
12 relating to the taxing of property in the state.

13 Section 12. That § 10-1-26 be amended to read as follows:

14 10-1-26. ~~It shall be the duty of the secretary of revenue and regulation and he shall have~~
15 ~~power to~~ The secretary of revenue and regulation may summon witnesses to appear and give
16 testimony and to produce records, books, papers, and documents relating to any ~~matters~~ matter
17 on which the secretary ~~shall have~~ has authority to investigate or determine.

18 Section 13. That § 10-1-27 be amended to read as follows:

19 10-1-27. ~~It shall be the duty of the secretary of revenue and regulation and he shall have~~
20 ~~power to~~ The secretary of revenue and regulation shall cause the deposition of witnesses
21 residing within or without the state or absent ~~therefrom~~ from the state to be taken upon notice
22 to the interested person, if any, in like manner that depositions of witnesses are taken in civil
23 actions pending in the circuit court, in any matter on which the secretary ~~shall have~~ has authority
24 to investigate or determine.

1 Section 14. That § 10-1-28 be amended to read as follows:

2 10-1-28. The secretary of revenue and regulation ~~or any of his directors or assistants engaged~~
3 ~~in supervision or administration of taxation,~~ in any matter under investigation or consideration,
4 may administer oaths to witnesses. ~~In case any witness shall fail~~ If any witness fails to obey any
5 summons to appear before the secretary ~~or any such directors or assistant or shall refuse,~~ refuses
6 to testify or answer any question, or fails to produce records, books, papers, or documents ~~when~~
7 if required so to do, such failure or refusal shall be reported to the attorney general who shall
8 ~~thereupon~~ institute proceedings in the proper circuit court to compel obedience to any summons
9 or order of the secretary ~~or any such director or assistant.~~ Officers who serve summonses or
10 subpoenas and witnesses attending shall receive like compensation as officers and witnesses in
11 the circuit court, ~~provided that such.~~ Such compensation shall be paid by the county for whose
12 benefit ~~such~~ the investigation is made, upon certificate of the secretary of revenue and
13 regulation.

14 ~~Whoever shall testify~~ Any person who testifies falsely in any matter under consideration by
15 the secretary of revenue and regulation ~~or any of his directors or assistants~~ in an investigation
16 as provided in this section, ~~shall be~~ is guilty of perjury and ~~punished accordingly.~~

17 Section 15. That § 10-1-31 be amended to read as follows:

18 10-1-31. ~~It shall be the duty of the secretary of revenue and regulation and he shall have~~
19 ~~power to~~ The secretary of revenue and regulation shall direct any proceedings, actions, and
20 prosecutions to be instituted to enforce the laws relating to penalties, liabilities, and punishment
21 of public officers; and officers and agents of corporations; for failure or neglect to comply with
22 the provisions of the laws of this state governing the assessment and taxation of property, ~~and~~
23 ~~to.~~ The secretary shall cause complaints to be made; to the proper authority; against directors
24 of equalization, members of boards of review, ~~and~~ members of boards of equalization, or other

1 assessing and taxing officers; for their removal from office for official misconduct or neglect
2 of duty.

3 Section 16. That § 10-1-32 be amended to read as follows:

4 10-1-32. ~~It shall be the duty of the secretary of revenue and regulation and he shall have~~
5 ~~power to~~ The secretary of revenue and regulation shall require state's attorneys to assist in the
6 commencement and prosecution of actions or proceedings for penalties, forfeitures, removals,
7 ~~and or other~~ punishment for violation of the laws of this state ~~in~~ with respect to the assessment
8 and taxation of property in their respective counties.

9 Section 17. That § 10-1-33 be amended to read as follows:

10 10-1-33. ~~It shall be the duty of the secretary of revenue and regulation and he shall have~~
11 ~~power to~~ The secretary of revenue and regulation shall require individuals, partnerships,
12 companies, associations, and corporations to furnish information concerning their capital,
13 bonded and other debts, current assets and liabilities, value of property, earnings, operating and
14 other expenses, taxes, and all other facts ~~which may be needful to enable the secretary to~~
15 ~~ascertain~~ that may assist the secretary in ascertaining the value and the relative tax burden borne
16 by all kinds of property in the state.

17 Section 18. That § 10-1-34 be amended to read as follows:

18 10-1-34. ~~It shall be the duty of the~~ The Department of Revenue and Regulation ~~to~~ shall
19 ascertain, compile, record, and report statistics relative to the natural resources of the state,
20 including school and public lands and waters, for the purpose of promoting the conservation,
21 use, and operation of such resources and to facilitate the collection ~~of such royalties therefrom~~
22 for state revenue purposes of any royalties derived from such resources as ~~are or may hereafter~~
23 ~~be~~ provided for by law.

24 Section 19. That § 10-1-36 be amended to read as follows:

1 10-1-36. ~~It shall be the duty of the secretary of revenue and regulation and he shall have~~
2 ~~power to~~ The secretary of revenue and regulation shall transmit to the Governor and to each
3 member elected to the Legislature, thirty days before the meeting of the Legislature, the report
4 of the secretary, showing all taxable property in the state and the value of the ~~same~~ property in
5 tabulated form, ~~with such~~. The report shall include other information as may be advisable, ~~with~~
6 and recommendations for improvement in the system of taxation in the state, together with ~~such~~
7 measures ~~as may be formulated~~ proposed by the secretary for the consideration ~~of~~ by the
8 Legislature.

9 Section 20. That § 10-1-37 be amended to read as follows:

10 10-1-37. ~~It shall be the duty of the secretary of revenue and regulation and he shall have~~
11 ~~power to~~ The secretary of revenue and regulation shall consult and confer with the Governor
12 upon the subject of taxation, the administration of the laws in relation ~~thereto~~ to taxation, and
13 the progress of the work of the secretary, ~~and to~~. The secretary shall furnish the Governor ~~from~~
14 ~~time to time~~ such reports, assistance, and information as ~~he~~ the Governor may require.

15 Section 21. That § 10-1-38 be amended to read as follows:

16 10-1-38. ~~It shall be the duty of the secretary of revenue and regulation and he shall have~~
17 ~~power to~~ The secretary of revenue and regulation shall formulate and recommend ~~such~~
18 ~~legislation as may be deemed expedient~~ legislation to prevent evasions of assessment and taxing
19 laws; and to secure just taxation and improvement in the system of taxation in this state.

20 Section 22. That § 10-1-39 be amended to read as follows:

21 10-1-39. ~~It shall be the duty of the Department of Revenue and Regulation to~~ The
22 Department of Revenue and Regulation shall devise and report in favor of ~~such~~ legislation as
23 ~~may be deemed that is~~ necessary and expedient for the levying and collection for state purposes
24 of license fees, franchise or charter fees, stamp taxes, royalties, privileges and business taxes,

1 and other revenues derived from the regulation of state affairs and the exercise of the police
2 powers of the state.

3 Section 23. That § 10-1-40 be amended to read as follows:

4 10-1-40. ~~It shall be the duty of the secretary of revenue and regulation and he shall have~~
5 ~~power to~~ The secretary of revenue and regulation shall construe the tax laws of the state
6 ~~whenever~~ if requested by any officer acting under such laws; ~~to see~~ shall ensure that all taxes
7 due the state, counties, municipalities, and other local subdivisions are collected, ~~and to;~~ and
8 shall perform such other duties and exercise such other powers as ~~may be~~ are provided by law.

9 Section 24. That § 10-3-3 be amended to read as follows:

10 10-3-3. The county director of equalization shall be appointed by the board of county
11 commissioners at either a special or regular meeting of the commissioners. ~~Whenever~~ If a single
12 municipality contains fifty percent or more of the population of a county, the mayor of ~~such~~ the
13 municipality and the board of county commissioners shall make ~~such~~ the appointment, and the
14 mayor ~~shall be~~ is entitled to sit and vote with ~~said~~ the board.

15 Section 25. That § 10-3-4 be amended to read as follows:

16 10-3-4. The director of equalization, ~~before entering upon his duties~~ the duties of the office,
17 shall file with the county auditor ~~his~~ the oath of office and a bond, in the manner and form
18 prescribed by § 10-3-12.

19 Section 26. That § 10-3-7 be amended to read as follows:

20 10-3-7. The county director of equalization shall receive ~~his~~ necessary traveling expenses
21 as fixed for county officials by § 7-7-24. The director shall ~~be allowed~~ receive necessary
22 traveling expenses as provided by ~~said section when~~ § 7-7-24 if attending meetings called by
23 the secretary of revenue and regulation.

24 Section 27. That § 10-3-12 be amended to read as follows:

1 10-3-20. The director of equalization ~~and his deputies shall have power to~~ may require any
2 person found within ~~such~~ the director's county to make and subscribe an affidavit, giving ~~his~~ the
3 person's name and place of residence and post office address.

4 Section 30. That § 10-3-21 be amended to read as follows:

5 10-3-21. ~~In the event~~ If the affidavit provided for in § 10-3-20 shows the residence of the
6 person making the ~~same~~, affidavit to be in any county other than that in which it the affidavit
7 is made, the director of equalization ~~must~~ shall, in the respective case, file the affidavit ~~or~~
8 ~~statement~~ in ~~his~~ the director's office; and transmit a copy of the ~~same~~ affidavit, certified by ~~him~~
9 the director, to the director of the county in which ~~such~~ the residence or property is ~~therein~~
10 ~~shown to be~~; any shown in the affidavit to be located. Any expense in connection ~~therewith~~ with
11 the requirements of this section shall be paid by the county at the rates as provided in circuit
12 court actions.

13 Section 31. That § 10-3-22 be amended to read as follows:

14 10-3-22. The director of equalization ~~and his deputies shall have power to~~ may subpoena
15 and examine any person in relation to any statement furnished to the director, ~~which~~ that
16 discloses property ~~which~~ that is assessable in the county of the taxpayer, ~~with authority to~~. The
17 director may exercise this power in any county where the person whom ~~he~~ the director desires
18 to examine may be found, ~~but has no power to~~. However, the director may not require such
19 persons to appear before ~~him~~ the director in any other county than that in which the subpoena
20 is served.

21 Section 32. That § 10-3-23 be amended to read as follows:

22 10-3-23. The director of equalization ~~and his deputies shall have power to~~ may enter upon
23 and inspect all property for the purpose of determining the value ~~thereof~~ of the property or to
24 discover and list property that has been omitted from the assessment rolls; ~~and shall each year~~.

1 ~~Each year, the director shall~~ list the taxpayers ~~whom he has checked and file said~~ whose
2 property has been inspected as provided in this section and shall file the list with the county
3 auditor.

4 Section 33. That § 10-3-24 be amended to read as follows:

5 10-3-24. The director of equalization ~~and his deputies are hereby required to~~ shall add all
6 omitted property to the assessment rolls at any time up to their delivery to the county auditor as
7 required in § 10-3-36; ~~and~~ The director shall give notice as prescribed by §§ 10-11-3 and 10-11-
8 6 to the taxpayer that such property is to be added to the assessment rolls.

9 Section 34. That § 10-3-25 be amended to read as follows:

10 10-3-25. The director of equalization ~~and his deputies are hereby required to~~ shall assess
11 property in the name of an absent owner if the name is known to the director; ~~and if~~ If the name
12 is unknown to the director, ~~to~~ the director shall add the property to unknown owners.

13 Section 35. That § 10-3-26 be amended to read as follows:

14 10-3-26. The director of equalization ~~and his deputies are hereby required to~~ shall make an
15 estimate of the value of property, if the owner or claimant ~~thereof~~ of the property is absent or
16 unknown; and ~~such~~ the property is not listed by another person.

17 Section 36. That § 10-3-27 be amended to read as follows:

18 10-3-27. The director of equalization ~~and his deputies are hereby required to~~ shall make an
19 estimate of the value of property, ~~where~~ if any person, after demand by the director, neglects or
20 refuses to give under oath; the statement required by § 10-6-8; or to comply with the other
21 requirements of this chapter or chapter 10-6; ~~and to~~ The director shall note the neglect or refusal
22 on the assessment book opposite the name of ~~such persons~~ any such person.

23 Section 37. That § 10-3-29 be amended to read as follows:

24 10-3-29. The director of equalization ~~and his deputies are hereby required to~~ shall prepare

1 a large scale topographical land map of the county showing ~~thereon~~ (a) the location of all
 2 railroads, highways, roads, bridges, rivers, lakes, swamp areas, wooded tracts, stony ridges, and
 3 other features ~~which~~ that might affect the value of the land; ~~(b) and~~ appropriate symbols to
 4 indicate the best, the fair, and the poor land of the county; ~~and~~. The director shall prepare and
 5 keep available in the director's office tables showing the classification of cultivated, meadow,
 6 pasture, cut-over timber, and wastelands of each congressional and organized township, for use
 7 in connection ~~therewith~~; ~~and~~ with the map. The director shall keep the map and tables available
 8 in ~~his~~ the office for ~~his own~~ the director's use and for the guidance of local and county boards
 9 of equalization.

10 Section 38. That § 10-3-30 be amended to read as follows:

11 10-3-30. The director of equalization ~~and his deputies~~ are hereby required to shall prepare
 12 and keep available in the director's office a land valuation map of the county. ~~Such~~ The map
 13 shall include the bordering tier of townships of each county adjoining; and shall show the true
 14 and full value per acre, both with and without improvements, of all lands ~~which~~ that lie outside
 15 the corporate limits of municipalities. The ~~director~~ map shall show the average assessed
 16 valuation per acre of real property by taxing districts, excluding the valuation of structures
 17 ~~thereon, by taxing districts, other than~~ on the real property, and excluding real property located
 18 within the corporate limits of municipalities.

19 Section 39. That § 10-3-31 be amended to read as follows:

20 10-3-31. The director of equalization, ~~and his deputies, are required to~~ shall regularly
 21 examine all conveyances of real estate in the county as filed with the register of deeds; and keep
 22 a record by description of the considerations shown ~~thereon~~ on the conveyances. However, the
 23 director of equalization may destroy any record ~~which~~ that is declared by the records destruction
 24 board, acting pursuant to § 1-27-19, ~~declares~~ to have no further administrative, legal, fiscal,

1 research, or historical value.

2 Section 40. That § 10-3-32 be amended to read as follows:

3 10-3-32. Upon receipt from the register of deeds of the certified list of transfers of real
4 estate, ~~it shall be the duty of the county director of equalization to~~ shall check the assessment
5 rolls of real estate for that year and ~~change upon such list the assessment thereof to the true~~
6 ~~owner as shown by such list~~ shall revise the assessment rolls so that the real estate is assessed
7 to the true owner as shown by the list of transfers.

8 Section 41. That § 10-3-33 be amended to read as follows:

9 10-3-33. The director of equalization ~~and his deputies are hereby required to give every~~
10 ~~possible assistance to~~ shall assist the boards of county commissioners and county boards of
11 equalization to enable them to perform their duties, and ~~to~~ shall furnish such boards with all
12 necessary charts, tables, comparisons, and data ~~which~~ that they may require.

13 Section 42. That § 10-3-34 be amended to read as follows:

14 10-3-34. The director of equalization ~~and his deputies~~ shall investigate applications for
15 reductions of value and abatements and settlements of taxes, examine the real property involved,
16 and submit reports and recommendations with respect to the application, ~~whenever~~ if requested
17 ~~so to do~~ by either the board of county commissioners or the secretary of revenue and regulation.

18 Section 43. That § 10-3-37 be amended to read as follows:

19 10-3-37. The director of equalization ~~and his deputies~~ shall exercise all the duties and
20 powers formerly imposed on ~~municipality~~, municipal and township assessors not inconsistent
21 with the provisions of this chapter.

22 Section 44. That § 10-3-39 be amended to read as follows:

23 10-3-39. The director of equalization ~~and his deputies, and their sureties, are liable on their~~
24 is liable on the director's official bond; for all taxes on property within the county ~~which,~~

1 ~~through his~~ that, through the director's willful failure or willful neglect, is unassessed. Any
2 deputy of the director of equalization is liable on the deputy's official bond for all taxes on
3 property within the county that, through the deputy's willful failure or willful neglect, is
4 unassessed.

5 Section 45. That § 10-24-1 be amended to read as follows:

6 10-24-1. Any person may redeem real property sold for taxes at any time before issue of a
7 tax deed ~~therefor~~ for the property, by paying the treasurer, for the use of the purchaser, ~~his heirs,~~
8 or the purchaser's heirs or assigns, the sum mentioned in the certificate, and interest ~~thereon on~~
9 the sum at the rate at which the real property was sold from the date of purchase, together with
10 all other taxes subsequently paid, whether for any year or years previous or subsequent to ~~such~~
11 the sale, and interest ~~thereon on the taxes~~ at the same rate from the date of ~~such~~ the payment;
12 ~~and the.~~ The treasurer shall enter a memorandum of the redemption in the list of sales; and give
13 a receipt ~~therefor~~ for the redemption to the person redeeming the ~~same, and~~ property. The
14 treasurer shall file a duplicate of the ~~same receipt~~ with the county auditor as in other cases; ~~and.~~
15 The treasurer shall hold the money subject to the order of the purchaser, ~~his~~ the purchaser's
16 agent, or the purchaser's attorney.

17 Section 46. That § 10-24-2 be amended to read as follows:

18 10-24-2. If the person who desires to redeem ~~shall~~ does not demand a receipt or certificate
19 of redemption from the treasurer, the return of the certificate of purchase for cancellation ~~shall~~
20 ~~operate~~ operates as a release of all claims to the tract or lot described ~~therein~~ in the certificate,
21 under or by virtue of the purchase, and under and by virtue of the payment of any taxes
22 subsequently paid in accordance with the provisions of law as to subsequent payment of taxes;
23 ~~and the.~~ The county treasurer, upon receiving ~~such~~ the certificate of purchase, shall mark on the
24 tax sale record opposite the description of the property for which ~~such~~ the certificate of purchase

1 has been issued, and opposite the record showing all payments of subsequent taxes, "sale
2 canceled by return of certificate."

3 Section 47. That § 10-24-3 be amended to read as follows:

4 10-24-3. Any ~~infant or mentally ill or retarded~~ developmentally disabled person may redeem
5 any real property belonging to ~~him~~ the person and sold for taxes, within one year after the
6 expiration of ~~his~~ the person's disability. ~~Nothing herein contained shall prevent~~ Any minor may
7 redeem any real property belonging to the minor and sold for taxes, within one year after the
8 minor reaches the age of eighteen. Nothing in this section prevents partition proceedings
9 according to law as to such real estate, by the tax deed holder or ~~his~~ the holder's successor as to
10 any real estate in which any such minor or any such person under disability may have any
11 interest.

12 Section 48. That § 10-24-4 be amended to read as follows:

13 10-24-4. No fee ~~shall~~ may be charged for any service provided for in §§ 10-24-1 to 10-24-3,
14 inclusive.

15 Section 49. That § 10-24-7 be amended to read as follows:

16 10-24-7. Nothing contained in §§ 10-24-5 ~~and or~~ 10-24-6 ~~shall prevent~~ prevents the county
17 from requiring payment of any ~~and all taxes which it might require~~ tax that the county requires
18 from any owner or other person interested in the property, ~~in case such~~ if the owner or interested
19 person ~~was~~ is seeking to redeem or pay a subsequent tax.

20 Section 50. That § 10-24-8 be amended to read as follows:

21 10-24-8. Nothing contained in §§ 10-24-5 ~~and or~~ 10-24-6 ~~shall operate to give any stranger~~
22 ~~or~~ grants any disinterested person redeeming or paying taxes; any lien upon the property or
23 claim against owners or lien claimants, except such as ~~he~~ the disinterested person may have by
24 contract with them or by law.

1 Section 51. That § 10-24-9 be amended to read as follows:

2 10-24-9. Any person claiming a part of or an undivided interest in any real property sold for
3 taxes, ~~which~~ if the part or undivided interest was acquired ~~prior to~~ before the tax sale from
4 which redemption is sought, may redeem ~~such~~ the part or undivided interest at any time before
5 a tax deed has been issued ~~thereon,~~ on the property by paying the just proportion of the total
6 amount required for redemption, ~~which.~~ The just proportion shall be determined by is the
7 proportion ~~which~~ that the then existing value of the part or interest for which redemption is
8 sought; bears to the then existing value of the whole, as computed by the county treasurer at the
9 time. If the tax sale certificate is held by a person other than the county, the redemption ~~shall not~~
10 ~~be~~ is not complete until the certificate holder ~~shall have accepted~~ accepts the portion so
11 determined by the county treasurer; or until it ~~shall have been finally~~ the matter is decided as
12 provided in §§ 10-24-12 to 10-24-15, inclusive.

13 Section 52. That § 10-24-10 be amended to read as follows:

14 10-24-10. In all such cases, the treasurer shall endorse the following upon the redemption
15 certificate or tax receipt issued to the redemptioner, ~~and also~~ upon the tax list opposite the real
16 estate description involved, and ~~also~~ upon the notice sent to the certificate holder, ~~the:~~

- 17 (1) The amount of the total value as determined by ~~him;~~ the treasurer;
- 18 (2) The amount of the value of the part or interest sought to be redeemed, ~~and the;~~ and
- 19 (3) The amount paid as tender for ~~such~~ the partial redemption by the proposed
20 redemptioner.

21 Section 53. That § 10-24-11 be amended to read as follows:

22 10-24-11. Such tender ~~cannot~~ may not be withdrawn by the proposed redemptioner but shall
23 be held by the treasurer subject to acceptance by the certificate holder, or final determination
24 as provided in §§ 10-24-12 to 10-24-15, inclusive, and then disposed of according to the

1 acceptance of the certificate holder or decision on appeal, and paid over to the certificate holder
2 or returned to the proposed redemptioner, according to the acceptance or decision.

3 Section 54. That § 10-24-12 be amended to read as follows:

4 10-24-12. Notice of the proposed partial redemption shall be ~~forthwith~~ immediately served
5 upon the certificate holder by personal service or by registered or certified mail ~~and such~~. The
6 proposed partial redemption ~~shall become~~ is final within ten days after receipt of ~~such~~ the notice
7 by the certificate holder, ~~his agent, or attorney, unless within such time he shall appeal~~ or the
8 certificate holder's agent or attorney, unless within such time the certificate holder or the
9 certificate holder's agent or attorney appeals to the board of county commissioners of the county
10 from ~~such~~ the determination of the treasurer.

11 Section 55. That § 10-24-13 be amended to read as follows:

12 10-24-13. The certificate holder ~~shall have the option to~~ may accept the amount so paid at
13 any time before its return to the prospective redemptioner, regardless of the pendency of appeal
14 proceedings or decision ~~thereon~~ on the proceedings.

15 Section 56. That § 10-24-14 be amended to read as follows:

16 10-24-14. The appeal referred to in § 10-24-12 may be taken by any informal notification
17 filed with or mailed to the treasurer stating that the certificate holder rejects the amount paid or
18 determined for ~~such~~ the proposed partial redemption ~~and if~~. If no such appeal is taken, the
19 redemption ~~becomes~~ is final and the part or interest is released from the effect of the tax sale
20 certificate and taxes paid as subsequent ~~thereto~~ to the redemption. If the appeal is taken, the
21 county commissioners shall be notified by the county treasurer and shall decide the matter at
22 their next regular or special meeting ~~thereafter, and note their~~ after the notice. The
23 commissioners shall note the decision in the minutes.

24 Section 57. That § 10-24-16 be amended to read as follows:

1 10-24-16. Any person having a lien upon any property sold or about to be sold for taxes or
 2 on which the taxes are delinquent and unpaid; may redeem from ~~such~~ the tax sale if the property
 3 is still subject to redemption or may pay such taxes, interest, penalty, and costs as are delinquent
 4 ~~and the.~~ The receipt of the county treasurer or the certificate of redemption ~~as the case may be,~~
 5 ~~shall constitute~~ constitutes an increase of the amount of the lien held by the party paying ~~such~~
 6 the taxes or making ~~such~~ the redemption; ~~and the.~~ The amount ~~so~~ paid and the interest ~~thereon~~
 7 on the amount at the rate specified in the lien instrument, or if none is ~~so~~ specified then at the
 8 rate ~~which~~ that such taxes would bear according to law, shall be collected with, as a part of, and
 9 in the same manner as the amount secured by the original lien.

10 Section 58. That § 10-25-1 be amended to read as follows:

11 10-25-1. In the case of any real property sold for taxes and not yet redeemed, the owner or
 12 holder of the tax certificate may conduct, or cause to be conducted, proceedings to procure a tax
 13 deed ~~thereon~~ on the real property, as provided by §§ 10-25-2 to 10-25-12, inclusive; The
 14 proceedings shall be initiated no sooner than three years from the date of the tax sale in the case
 15 of real property located within the limits of any municipality, or no sooner than four years from
 16 the date of the tax sale in the case of real property located outside the limits of any municipality,
 17 or at any time thereafter within six years from the date of the tax sale subject to the provisions
 18 of §§ 10-25-16 to 10-25-19, inclusive. ~~Such time period shall apply~~ The time period applies
 19 equally to the county or any other purchaser of the tax certificate; ~~any.~~ Any assignee of a tax
 20 certificate shall take the certificate subject to the time period of the first owner of the tax
 21 certificate.

22 Section 59. That § 10-25-2 be amended to read as follows:

23 10-25-2. A notice of intention to take tax deed shall be signed by the lawful holder of the
 24 tax sale certificate, ~~his~~ or the holder's agent or attorney, stating the date of sale, the description

1 of the property sold, the name of the purchaser, and the name of the assignee, if any, ~~and~~. The
 2 notice shall also state that the right of redemption will expire and a deed for ~~such~~ the real
 3 property will be made upon the expiration of sixty days from the completed service, unless the
 4 property ~~be~~ is redeemed as permitted by law. ~~Where~~ If two or more certificates covering
 5 different descriptions of property are held by the same person, either by purchase or assignment
 6 or both, ~~such~~ the descriptions may all be included in one notice ~~upon stating in such notice like~~
 7 ~~information for each such description so included~~ if the notice includes the information required
 8 in this section for each such description.

9 Section 60. That § 10-25-4 be amended to read as follows:

10 10-25-4. If ~~said~~ the real property is situated within a municipal corporation, notice also shall
 11 be served upon the following:

12 (1) The holder of any special assessment certificate ~~which that~~ is a lien upon ~~said~~ the real
 13 estate ~~and upon the~~;

14 (2) The holder of any tax certificate issued upon sale for any special assessment, ~~and in~~
 15 ~~case~~;

16 (3) If bonds have been issued in lieu of assessment certificates, upon the holder of the
 17 bond last maturing, ~~and also upon the~~; and

18 (4) The city auditor or town clerk of ~~such~~ the municipal corporation; ~~the~~;

19 The service provided for in this section ~~to~~ may be made only upon those persons ~~mentioned~~
 20 described in this section whose names and post-office addresses are known to the holder of ~~such~~
 21 the tax certificates or can be obtained from the treasurer of ~~said~~ the municipal corporation ~~or his~~
 22 ~~deputy~~, or the county treasurer ~~or his deputy~~, as provided for in § 10-25-7.

23 Section 61. That § 10-25-6 be amended to read as follows:

24 10-25-6. If any of the persons on whom notice is required to be served by §§ 10-25-3 and

1 10-25-4 is deceased, the notice shall be served on ~~his~~ the person's personal representative,
 2 foreign or resident, or upon the resident agent of a foreign personal representative, if any ~~of such~~
 3 are known to the certificate holder; ~~if none such are so known then.~~ If no such persons are
 4 known, the notice shall be served upon ~~such of the~~ any known heirs, devisees, and legatees of
 5 the decedent ~~as are known,~~ in the same manner as if they were owners of record, ~~and as to such~~
 6 ~~of them as are unknown, or if all are unknown,~~ For any unknown heirs, devisees, and legatees
 7 of the decedent, notice shall be served by including in and publishing the notice, the same as
 8 required for nonresidents, designating such unknown persons as "the unknown personal
 9 representatives, heirs, devisees, legatees of _____, deceased," naming the decedent;
 10 ~~and as to.~~ For unknown persons, no mailing ~~shall be~~ is required. The fact of whether the
 11 decedent, ~~his~~ the decedent's personal representative; or resident agent, or any ~~or all~~ heirs,
 12 devisees, and legatees are known or unknown shall be sufficiently established for tax-deed
 13 proceedings by the affidavit of the certificate holder, ~~his agent,~~ or the certificate holder's agent
 14 or attorney conducting the proceedings.

15 Section 62. That § 10-25-7 be amended to read as follows:

16 10-25-7. The notice to the holder of any special assessment certificate, or bond issued in lieu
 17 ~~thereof~~ of a special assessment certificate, shall be directed to ~~such~~ the certificate holder or
 18 bondholder ~~to his address as the same appears~~ at the address that appears for the certificate
 19 holder or bond holder in connection with the record of ~~said~~ the certificate or bond in the office
 20 of the treasurer of the municipal corporation, ~~such notice to.~~ The notice shall be sent by
 21 registered or certified mail with all proper postage prepaid, ~~and.~~ A like notice, by registered or
 22 certified mail, shall be given to the holder of any tax certificate issued upon a sale for any
 23 special assessment, by mailing to ~~his~~ the tax certificate holder's address as ~~it~~ the address appears
 24 in the ~~Office of the County Treasurer~~ office of the county treasurer. Such service ~~shall not be~~

1 ~~required as to~~ is not required for any certificate holder or bondholder whose name and address
2 ~~does do~~ not appear in such the record and ~~as to whom~~ for whom an affidavit or certificate is
3 made by ~~such treasurer or deputy that such~~ the treasurer stating that the person's name or address
4 is not known to ~~him~~ the treasurer, accompanied by an affidavit of the holder of ~~such the~~ tax
5 certificate that ~~he~~ the holder does not know the name and address of ~~such the~~ person.

6 Section 63. That § 10-25-8 be amended to read as follows:

7 10-25-8. The service of ~~such notice shall be deemed~~ the notice is complete when an affidavit
8 of the service of ~~such the~~ notice and of the particular mode ~~thereof of the notice~~, duly signed and
9 verified by the person or officer making the service, ~~shall have~~ has been filed with the treasurer
10 authorized to execute the tax deed, ~~and such~~. The record or affidavit ~~shall be~~ is presumptive
11 evidence of the completed service of the notice ~~herein required, and~~. The right of redemption
12 from the sale does not expire until sixty days after the filing of affidavit of completed service
13 of ~~such the~~ notice ~~the right of redemption from such sale shall not expire~~.

14 Section 64. That § 10-25-10 be amended to read as follows:

15 10-25-10. The person demanding ~~such the~~ tax deed ~~must~~ shall purchase the assignment of
16 all prior tax certificates held by the county on ~~such the~~ real property before the county treasurer
17 ~~shall~~ may issue the tax deed.

18 Section 65. That § 10-25-11 be amended to read as follows:

19 10-25-11. Immediately after the expiration of sixty days from the date of the filing of
20 affidavit of completed service of the notice provided in § 10-25-8, the treasurer ~~then in office~~
21 shall make out a deed for each lot or parcel of real property sold and remaining unredeemed.
22 ~~Such~~ The deed shall be signed by the county treasurer and attested by the county auditor, under
23 seal, and shall be delivered to the purchaser or ~~his~~ the purchaser's assignee upon the return of
24 the certificate of tax sale. The treasurer shall receive one dollar for each deed made by ~~him~~ the

1 treasurer on such sales, but any number of parcels of real property bought by one person may
2 be included in one deed, as the holder may desire.

3 Section 66. That § 10-25-12 be amended to read as follows:

4 10-25-12. ~~Such deed and deeds~~ Any deed issued pursuant to chapter 10-26 ~~shall vest vests~~
5 in the grantee an absolute estate in fee simple in ~~such the~~ the real property, ~~subject, however, to all~~
6 ~~claims which.~~ However, the real property is subject to any claim that the state may have therein
7 in the real property for taxes, liens, or encumbrances ~~and to liens.~~ The real property is also
8 subject to any lien for past-due installments of special assessments for the financing of
9 municipal improvements levied pursuant to chapter 9-43, including principal and interest
10 ~~thereon on the installments~~ except as provided by § 9-43-60. The holder of ~~such the~~ the deed or ~~his~~
11 the holder's successor in interest ~~shall be~~ is entitled to immediate exclusive possession of the
12 real estate described ~~therein in the deed~~ regardless of rights of any person to redeem or question
13 the same thereafter.

14 Section 67. That § 10-25-16 be amended to read as follows:

15 10-25-16. ~~In all cases where~~ If proceedings to procure a tax deed are not commenced within
16 six years after the date of the tax sale certificate on which ~~such the~~ the proceedings are based, ~~such~~
17 the tax sale certificate, the lien for taxes, the lien of any taxes paid by the holder of ~~such the~~ the tax
18 sale certificate as subsequent taxes, and all rights thereunder ~~shall cease and be~~ are forever
19 ~~barred, and the.~~ The county treasurer is authorized and it shall be his duty to ~~cancel such~~ shall
20 cancel the certificate on ~~his~~ the treasurer's record and ~~to~~ shall note on the sale records and the
21 tax books of ~~his office the fact that~~ such the treasurer's office that the tax sale certificate and the
22 lien of ~~such~~ subsequent tax receipts held by the owner of ~~such the~~ the tax sale certificate are barred
23 and of no validity.

24 Section 68. That § 10-25-17 be amended to read as follows:

1 10-25-17. ~~Section~~ The provisions of § 10-25-16 shall do not apply to tax sale certificates so
2 ~~long as they~~ that are held by the county. ~~When~~ If any such certificate is assigned by the county,
3 ~~which and if the certificate~~ is dated more than four years preceding the date of its assignment,
4 the purchaser ~~thereof shall have~~ of the certificate has one year from the date of its assignment
5 within which to commence proceedings to procure a tax deed.

6 Section 69. That § 10-25-18 be amended to read as follows:

7 10-25-18. The commencement of proceedings to procure a tax deed within the periods
8 limited in §§ 10-25-16 and 10-25-17 ~~shall not operate to~~ does not extend the lien of the holder
9 of ~~such~~ the tax sale certificates more than six months beyond the expiration of ~~such~~ the periods
10 of limitations. If any such proceedings, commenced within the time limited by ~~said sections~~
11 §§ 10-25-16 and 10-25-17, are not completed, and the right of the party instituting ~~such~~ the
12 proceedings to receive a tax deed under the provisions of §§ 10-25-1 to 10-25-12, inclusive, is
13 not fully completed and established, within six months after the expiration of six years from the
14 date of the tax sale certificate upon which ~~such~~ the proceedings are based; allowing, however,
15 to purchasers of tax sale certificates assigned by the county the additional period of one year
16 from the date of the assignment within which to commence such proceedings and six months
17 after the expiration of ~~such~~ the period of one year within which to complete the ~~same~~
18 proceedings; then all rights under ~~such~~ the proceedings ~~shall~~ cease and be forever barred and
19 ~~it shall be the duty of the county treasurer to cancel said~~ shall cancel the tax sale certificate in
20 the manner provided in § 10-25-16, ~~and thereupon~~. Thereupon, the lien of the holder of ~~such~~ the
21 tax sale certificate ~~shall be~~ is extinguished and all further proceedings ~~thereon shall be~~ on the
22 tax sale certificate are barred.

23 Section 70. That § 10-25-19 be amended to read as follows:

24 10-25-19. Commencement of proceedings as ~~used~~ provided for in §§ 10-25-16 to 10-25-18,

1 inclusive, ~~shall mean~~ means any act done or record made by or for the certificate holder
 2 indicating that proceedings have been commenced. Completion of proceedings as used in ~~said~~
 3 ~~sections shall mean~~ §§ 10-25-16 to 10-25-18, inclusive, means the completed service and filing
 4 of proof of service in the ~~Office of County Treasurer~~ office of the county treasurer so as to start
 5 running the sixty days allowed for redemption.

6 Section 71. That § 10-25-20 be amended to read as follows:

7 10-25-20. ~~In any case in which~~ If any real property has been bid in by the county treasurer
 8 in the name of the county at tax sale and has not been redeemed from the sale or the county has
 9 not assigned the certificate of purchase, and ~~such~~ if sufficient time has elapsed since the tax sale
 10 that a tax deed may properly issue, if the county treasurer ~~fail, refuse, or neglect~~ fails, refuses,
 11 or neglects to take proceedings for the issuance of a tax deed to the county, ~~it shall be the duty~~
 12 ~~of the county treasurer~~ shall, upon written application of the county commissioners, or the
 13 governing body of any municipal corporation, school district, or township within the county
 14 ~~which~~ that would be beneficiaries of the tax for which the property was sold, ~~forthwith to~~
 15 immediately give notice of intention to take tax deed as required by law, ~~and upon~~ Upon such
 16 notice being given, if there ~~be~~ is no redemption within the time allowed by law, ~~to the county~~
 17 treasurer shall issue a tax deed for ~~such~~ the real property to the county as provided by law. If the
 18 county treasurer ~~fail, refuse, or neglect~~ fails, refuses, or neglects to comply with the provisions
 19 of this section, ~~his duty so to do~~ the county treasurer's duty to comply may be enforced by writ
 20 of mandamus.

21 Section 72. That § 10-25-21 be amended to read as follows:

22 10-25-21. ~~In any case in which~~ If any real property has been bid in by the county treasurer
 23 in the name of the county, at tax sale, and has not been redeemed from the sale, or the county
 24 has not assigned the certificate of sale, and ~~such~~ sufficient time has elapsed since the sale that

1 a tax deed may properly issue, the board of county commissioners ~~shall be authorized~~ may, in
2 lieu of taking tax deed, ~~to~~ procure from any person, firm, or corporation having any interest in
3 ~~such the~~ real property, real or apparent, a transfer by deed of ~~such the~~ interest. ~~Provided,~~
4 ~~however~~ However, the consideration for ~~such transfer shall in no case~~ the transfer may not
5 exceed the sum of fifteen dollars exclusive of taxes in connection with any one piece or parcel
6 of land.

7 Section 73. That § 10-25-22 be amended to read as follows:

8 10-25-22. ~~Whenever~~ If title to real property has been acquired by the county under the
9 provisions of § 10-25-21, the board of county commissioners ~~shall have power to~~ may
10 compromise, abate, or fully cancel any taxes previously extended against ~~such the~~ property.

11 Section 74. That § 10-25-24 be amended to read as follows:

12 10-25-24. Any county ~~which that~~ has acquired or may acquire title to any land by tax deed
13 may commence an action in the county to quiet the title ~~thereof and in~~ to the land. In any such
14 action, several tracts of land, contiguous or noncontiguous, may be included in one complaint
15 and all persons claiming any title to, interest in, or lien upon any of ~~said the~~ lands may be joined
16 as defendants. ~~It shall be the duty of the state's attorney upon~~ Upon request of the board of
17 county commissioners of the county ~~to,~~ the state's attorney shall promptly commence and
18 prosecute to final judgment any ~~and all such actions~~ such action.

19 Section 75. That § 10-25-25 be amended to read as follows:

20 10-25-25. The procedure in such action shall be as provided in chapter 21-41, except that
21 the provisions of ~~said~~ chapter 21-41 requiring the plaintiff to execute an indemnity bond, before
22 entry of judgment, to the defendants who ~~shall be~~ are served by publication ~~shall not be~~ are not
23 applicable to the county.

24 Section 76. That § 10-25-26 be amended to read as follows:

1 10-25-26. The board of county commissioners ~~shall be authorized, to~~ may procure from any
 2 person, firm, or corporation having any interest in such land, real or apparent, a transfer,
 3 assignment, or satisfaction of ~~such the~~ the interest for the purpose of removing any cloud from the
 4 title of ~~such lands~~ the land. The authority ~~herein granted in this section~~ may be exercised either
 5 in lieu of an action to quiet title or in connection ~~therewith. Provided, however, that~~ with such
 6 an action. However, the consideration for ~~such the~~ the transfer, assignment, or satisfaction ~~shall may~~
 7 not exceed twenty-five dollars in connection with any one piece or parcel of land, the title to
 8 which is sought to be quieted or cloud ~~thereto~~ to the title removed. The board of county
 9 commissioners ~~are hereby authorized to~~ may negotiate with any ~~such~~ such person having any interest,
 10 real or apparent, in any such real estate, for such transfers, assignments, or satisfactions and may
 11 pay for the ~~same~~ transfers, assignments, or satisfactions within the limitations ~~herein provided~~
 12 in this section.

13 Section 77. That § 10-25-39 be amended to read as follows:

14 10-25-39. The proceeds of ~~such the~~ the sale, after deducting the expenses incurred by the county
 15 in the proceedings to take tax deed and in ~~such the~~ the sale proceedings, shall be placed to the credit
 16 pro rata of the various funds and taxing districts ~~which that~~ that are the beneficiaries of the tax for
 17 the year for which ~~such the~~ the property was sold at tax sale; ~~provided however that it shall be~~
 18 ~~lawful for the county treasurer, in his discretion, to.~~ However, the county treasurer may
 19 distribute the proceeds received from the sale of any real property under the provisions ~~hereof~~
 20 of this section by prorating ~~such the~~ the proceeds on the basis of the levy for any one year for which
 21 the taxes ~~of which~~ are included in the proceeds of ~~such the~~ the sale, taking the year ~~which that~~
 22 represents the more equitable basis for ~~such the~~ the distribution.

23 Section 78. That § 10-25-42 be amended to read as follows:

24 10-25-42. Nothing contained in § 10-25-41 ~~shall limit~~ limits the discretion of the county

1 commissioners to fix any higher price for such reconveyance or to annex to the reconveyance
2 any such conditions or qualifications as ~~they~~ the county commissioners may decide.

3 Section 79. That § 10-25-43 be amended to read as follows:

4 10-25-43. Reconveyance pursuant to § 10-25-41 ~~shall~~ may be authorized only by resolution
5 of the county commissioners duly published in their minutes, and ~~such~~ the reconveyance ~~shall~~
6 may be made only after the time for appealing from ~~such~~ the resolution has expired. The
7 reconveyance shall be made by quitclaim deed substantially in the form provided by chapter 43-
8 25 and may be made only upon payment in cash of the price fixed by the resolution of the
9 county commissioners. The quitclaim deed shall be executed by the treasurer and attested by the
10 auditor under seal ~~and shall have~~. The quitclaim deed has the effect only of releasing the title
11 and claim ~~which~~ that the county and the taxing districts represented by the ~~same~~ county have
12 under the tax deed and any of the taxes ~~which~~ that are paid as a part of ~~such~~ the price fixed by
13 the county commissioners.

14 Section 80. That § 10-26-1 be amended to read as follows:

15 10-26-1. The treasurer of each county within this state may make a list of all taxes upon all
16 real property in ~~his~~ the county ~~which~~ that appear from the tax records to be delinquent for a
17 period of at least six years and ~~which~~ taxes that have not been satisfied by payment, or
18 redemption, or sale of real estate, against which such taxes are assessed, to actual purchasers.
19 ~~Said~~ The list shall include all such taxes upon any real estate ~~which~~ that may at any tax sale have
20 been bid in for the county, except real estate upon which the county holds school loans, and
21 shall include all tax judgments against lands ~~which~~ that have not been sold or bid off for the
22 payment of ~~such~~ the judgment, ~~and where~~. If a tax judgment stands against any such real estate,
23 unsatisfied, the taxes and interest shall be computed as if ~~said~~ the judgment had not been taken,
24 and a sale of ~~such~~ the real estate under the provisions of this chapter, ~~shall satisfy said~~ satisfies

1 ~~the judgment. Said~~ The list shall contain a description of each piece or parcel of land and each
 2 lot, block, and addition, upon which taxes have not been paid as ~~aforesaid, and opposite~~
 3 specified in this section. Opposite each description the name of the owner to whom the taxes
 4 are assessed, if known, and if shall be specified. If the name of the owner is unknown, shall so
 5 ~~state~~ a statement to that effect shall be provided. The year for which ~~said~~ the taxes are
 6 delinquent shall be shown giving the year and the amount of tax for each year including the
 7 penalty and interest for each year and the total aggregate amount of all taxes delinquent and the
 8 penalty and interest. The year given ~~shall be~~ is deemed inclusive.

9 Section 81. That § 10-26-2 be amended to read as follows:

10 10-26-2. The treasurer shall attach to ~~such~~ the list ~~his~~ an affidavit to the effect that ~~same~~ the
 11 list is a correct list and that ~~said~~ the taxes as shown on ~~said~~ the list are due, unpaid, and
 12 delinquent according to the records of ~~his~~ the treasurer's office. ~~He~~ The treasurer shall, on or
 13 before September tenth in the year in which ~~he~~ the treasurer prepares ~~said~~ the list, also file ~~same~~
 14 the list in the ~~Office of the County Treasurer~~ office of the county treasurer and county auditor
 15 of ~~his~~ the treasurer's county.

16 Section 82. That § 10-26-4 be amended to read as follows:

17 10-26-4. On or before October tenth in the year in which ~~said~~ the list of unpaid taxes is
 18 prepared by ~~said~~ the treasurer and after the filing of ~~said~~ the list as required by this chapter, the
 19 county treasurer shall give notice that tax deed will issue on the lands described in ~~said~~ the
 20 delinquent tax list by serving notice to take tax deed by county on the recorded owner of the
 21 property. Notice shall be served either in person or by registered or certified mail sent to ~~his~~ the
 22 recorded owner's last known address and posting a copy of ~~said~~ the list at the place designated
 23 by the county commissioners under the provisions of § 17-3-1 in the county in which ~~said~~ the
 24 lands are situated ~~and attaching thereto a notice which shall be.~~ A notice in substantially in the

1 following form shall be attached to the list:

2 "NOTICE TO TAKE TAX DEED BY COUNTY

3 "NOTICE IS HEREBY GIVEN to all persons, firms, or corporations, who have, or claim
4 any estate, right, title, or interest on, or claim to, or lien upon, any of the several pieces or
5 parcels or lots of lands described in the list hereto attached. The list of taxes, including taxes
6 reduced to judgment, upon real estate, which appear from the records in the office of the county
7 treasurer of the county of _____, State of South Dakota, which are delinquent for the year
8 as therein shown, which have not been paid for any of the years as therein shown, having been
9 filed as required by law in the office of the county treasurer and county auditor of said county
10 of _____, of which the list attached is a copy, pursuant to the provisions of chapter 10-26
11 of the South Dakota Codified Laws, being a proceeding for enforcing the payment of taxes upon
12 real estate for the said county of _____ remaining delinquent for six years or more.

13 "NOTICE IS HEREBY GIVEN that the right of redemption will expire AND TAX DEED
14 will be issued to _____ county upon the expiration of sixty days from the completed
15 service of this notice unless redemption is made as provided by law.

16 (Signed) _____ Treasurer of _____ county"

17 Section 83. That § 10-26-5 be amended to read as follows:

18 10-26-5. The county treasurer shall also give notice of intention to take tax deed by the
19 county of ~~said~~ the property by publishing notice in the designated newspapers of the county in
20 which ~~said~~ the real estate is situated, ~~by causing such notice to~~ The notice shall be published
21 at least two successive weeks ~~prior to~~ before November tenth of the year in which ~~said~~ the list
22 is prepared and filed. ~~Said~~ The notice shall be substantially in the following form:

23 "NOTICE OF INTENTION TO TAKE TAX DEED BY COUNTY

24 "NOTICE IS HEREBY GIVEN that WHEREAS the taxes remain unpaid upon real property

1 described in that certain delinquent tax list, which is now on file in the offices of the county
 2 treasurer and county auditor of _____ county of South Dakota, giving the years of
 3 all taxes delinquent for a period of six years or more immediately preceding the filing of said
 4 list as aforesaid, that the right of redemption will expire and TAX DEED will be issued to
 5 _____ county upon the expiration of sixty days from the completed service of this
 6 notice unless redemption is made as provided by law.

7 (Signed) _____ Treasurer of _____ county"

8 Section 84. That § 10-26-6 be amended to read as follows:

9 10-26-6. The treasurer shall file in ~~his~~ the treasurer's office and in the auditor's office on or
 10 before November twentieth of the year in which the list is prepared and filed an affidavit of
 11 completed service that tax deed will issue, which shall be substantially in the following form:

12 "AFFIDAVIT OF COMPLETED SERVICE OF NOTICE
 13 TO TAKE TAX DEED

14 "State of South Dakota

15 County of _____ ss.

16 " _____, being first duly sworn, on oath states that he or she is (agent or attorney
 17 for) the duly elected, qualified, and acting county treasurer of _____ county, South
 18 Dakota; that he or she has conducted the proceedings to take TAX DEED FOR SAID REAL
 19 ESTATE, PURSUANT TO THE PROVISIONS OF CHAPTER 10-26 of the South Dakota
 20 Codified Laws. Affiant further states that he or she filed in the office of the county treasurer and
 21 county auditor a copy of the DELINQUENT TAX LIST and posted one, at the place designated
 22 by the county commissioners for posting legal notices at the county courthouse pursuant to
 23 § 17-3-1 of the South Dakota Codified Laws and sent such notices, as required by this chapter.
 24 Affiant further states that he or she caused notice to be served by publishing the same once a

1 week for two successive weeks in the official newspaper of the county; and proof of such
2 publication is attached hereto and made a part of this affidavit. That such service is now
3 complete in all things and the costs and expenses in connection therewith were as follows:

4 (Here insert a list of all costs and expenses) (Signed) _____

5 "Subscribed and sworn to before me this _____ day of _____, 1920 ____.

6 _____

7 Notary Public"

8 Section 85. That § 10-26-7 be amended to read as follows:

9 10-26-7. The treasurer shall execute a tax deed to the county of any piece or parcel or lot of
10 land and shall include in ~~said~~ the deed any number of descriptions, which may be substantially
11 in the following form:

12 "I, _____, treasurer of the county of _____ do hereby certify that pursuant to chapter
13 10-26 of the South Dakota Codified Laws in proceedings to enforce the payment of taxes
14 delinquent upon real estate for six years or more, in the county of _____, I did on or before
15 the tenth day of September _____, file in my office and in the office of the county auditor,
16 a list of all taxes upon all real property which appear from the tax records to be delinquent, in
17 the office of the county treasurer in said county.

18 "And it appearing that such real property has not been redeemed; that notice of right to
19 redeem has been given as required by law; that sixty days have expired since the completed
20 service of such notice; that such real property was charged on the tax list, and that the same was
21 legally advertised.

22 "NOW, THEREFORE, THIS INDENTURE made this _____ day of _____,
23 _____, by _____, treasurer of said county, party of the first part, and the said _____
24 county, party of the second part, I do, therefore, pursuant to the statute in such cases made and

1 provided, convey the said piece, parcel or lot or pieces, parcels or lots of land in fee simple to
 2 _____ county as provided by said chapter 10-26 of the South Dakota Compiled Laws of
 3 1967, described as follows, to wit: to have and to hold the said mentioned tract or parcel of land,
 4 with the appurtenances thereto belonging, to _____ county, the said party of the second part,
 5 and its assigns forever, in as full and ample manner as the said treasurer of said county is
 6 empowered by law to convey the same.

7 "In Testimony Whereof, the said _____ treasurer of the said county of _____ has
 8 hereunto set his hand and seal on the day and year aforesaid.

9 "ATTEST:

10 _____
 11 Treasurer of _____ county

12 _____
 13 Auditor of _____ county

14 "ACKNOWLEDGMENT

15 "State of South Dakota

16 County of _____ ss.

17 "On this _____ day of _____, in the year _____, before me personally appeared
 18 _____ county treasurer of the said county of _____ known to me to be the person who
 19 is described in and who executed the within instrument and acknowledged to me that he
 20 executed the same.

21 _____
 22 _____

23 "Office of Register of Deeds

24 State of South Dakota ss.

1 _____ County

2 "I hereby certify that the within instrument was filed in this office for record on the
3 _____ day of _____ A. D., _____ at _____ o'clock ____ m., and recorded in
4 Volume _____ of _____ on page _____.

5 REGISTER OF DEEDS

6 By _____ Deputy"

7 Section 86. That § 10-26-8 be amended to read as follows:

8 10-26-8. The county treasurer shall attach a copy of the affidavit of completed service to the
9 copy of delinquent taxes on file in ~~his~~ the treasurer's office and that of the county ~~auditor~~
10 auditor's office.

11 Section 87. That § 10-26-9 be amended to read as follows:

12 10-26-9. The county treasurer ~~shall~~ may not charge or collect ~~no fees~~ any fee for any of the
13 services required of ~~him~~ the treasurer in this chapter. However, the county treasurer may appoint
14 an agent or attorney, with the approval of the board of county commissioners, at such
15 compensation as the board may determine, to assist the county treasurer in administering the
16 provisions of this chapter.

17 Section 88. That § 10-27-1 be amended to read as follows:

18 10-27-1. No injunction to restrain or delay the collection of any tax claimed to be due ~~shall~~
19 may be issued by any court, ~~but in all cases.~~ However, in any case in which, for any reason, it
20 ~~shall be~~ is claimed that any tax about to be collected is wrongful or illegal, in whole or in part,
21 the remedy, except as otherwise expressly provided by this code, ~~shall be~~ is by payment under
22 protest and action to recover, as provided in § 10-27-2.

23 Section 89. That § 10-27-3 be amended to read as follows:

24 10-27-3. In any action or proceeding to recover real property sold for taxes, or to invalidate

1 or cancel any tax sale certificate, tax deed, or other tax sale proceeding, the party seeking such
2 relief ~~must~~ shall specify and tender in ~~his~~ the party's pleading the amount of the tax, if any,
3 ~~which he~~ that the party concedes to be due. If any opposing party who claims an interest in the
4 tax or property serves and files a pleading accepting the amount so tendered, the party seeking
5 relief ~~must~~ shall within ten days thereafter deposit the sum tendered with the county treasurer
6 of the county or counties involved, and take and file with the clerk of the court the receipt of
7 ~~such treasurer therefor~~ provided by the treasurer for the deposit.

8 Section 90. That § 10-27-6 be amended to read as follows:

9 10-27-6. ~~In cases where the court shall find~~ If the court finds that the party seeking relief was
10 prevented from paying the tax because of lack of any original legal assessment, equalization,
11 levy, or listing of the tax and that ~~such~~ the party or ~~his~~ the party's predecessors in interest in
12 good faith failed or neglected to pay the tax on that account, it ~~the court~~ may waive the
13 requirement of deposit of interest, ~~but~~ However, this provision ~~shall~~ does not relieve the county
14 and taxing districts involved from payment of interest to the person who may originally have
15 paid the tax or any part ~~thereof~~ of the tax to or for them if ~~such~~ the county has been made a party
16 to the action. ~~Such~~ The court's order may direct the deposit to be made within such time as the
17 court ~~in its discretion may deem~~ deems just but not less than ten days nor more than ninety days
18 ~~shall~~ may be allowed for ~~such~~ the deposit. Unless the party seeking such relief makes the deposit
19 within such time as ordered, or stays the order by appeal to the Supreme Court, the action shall
20 be dismissed upon the merits upon motion of any party ~~thereto~~ to the action. If the party seeking
21 relief makes ~~such~~ the deposit as is directed by the court, the action or proceeding shall then
22 proceed to final determination, upon ~~any and all issues involved, and the making of such deposit~~
23 ~~shall not in any manner be taken or construed as~~ The making of the deposit is not an admission,
24 estoppel, or other legal conclusion for or against any party, ~~but the same shall~~ The making of

1 the deposit may be considered only as a security for the purposes contemplated by this chapter.

2 Section 91. That § 10-39-42 be amended to read as follows:

3 10-39-42. Terms used in this chapter, ~~unless the context plainly otherwise requires,~~ mean:

- 4 (1) "Department," the South Dakota Department of Revenue and Regulation;
- 5 (2) "Precious metals," gold and silver;
- 6 (3) "Secretary," the secretary of the South Dakota Department of Revenue and
7 Regulation ~~or his authorized representative;~~
- 8 (4) "Severing," the mining, extracting, or producing of any precious metal.

9 Section 92. That § 10-39-45.3 be amended to read as follows:

10 10-39-45.3. On or before the last day of January, April, July, and October, each person who
11 mined or extracted precious metals during the previous calendar year shall file with the
12 Department of Revenue and Regulation a verified estimate of ~~his~~ the person's tax for the current
13 year and pay one-fourth of the estimated taxes.

14 Section 93. That § 10-39-51 be amended to read as follows:

15 10-39-51. A taxpayer who is required by the secretary of revenue and regulation to pay a tax
16 ~~which he~~ that the taxpayer deems improper or unlawful in amount may pay the tax under protest
17 and may recover the tax without interest, ~~provided if~~ provided if an action is commenced in the circuit court
18 against the secretary within six months after payment and a judgment is granted to the taxpayer.
19 A judgment against the secretary shall be paid out of any money not otherwise appropriated in
20 the state general fund upon a voucher duly approved by the secretary. This remedy is exclusive
21 of all other remedies and no injunction to restrain or delay the collection of a tax claimed to be
22 due ~~shall~~ may be issued by any court in this state.

23 Section 94. That § 10-39A-1 be amended to read as follows:

24 10-39A-1. For the privilege of severing energy minerals in this state, there is imposed on the

1 ~~owners or operators of energy minerals~~ owner or operator of any energy mineral an excise tax,
2 to be termed a "severance tax," equal to four and one-half percent of the taxable value of any
3 energy minerals severed and saved by or for ~~him~~ the owner or operator.

4 Section 95. That § 10-39A-1.1 be amended to read as follows:

5 10-39A-1.1. Terms used in this chapter, ~~unless the context otherwise requires,~~ mean:

- 6 (1) "Energy minerals," any mineral fuel including, ~~but not limited to,~~ coal, lignite,
7 petroleum, oil, natural gas, uranium, and thorium and any combination of minerals
8 used in the production of energy;
- 9 (2) "Market value," the price at which the property would change hands between a
10 willing buyer and willing seller, neither being under any compulsion to buy or sell
11 and both having reasonable knowledge of the facts;
- 12 (3) "Operator," a person who directly or physically severs minerals from the land;
- 13 (4) "Owner of interest" or "owner," an owner of a landowner's royalty, of an overriding
14 royalty, or of profits and working interests, or any combination thereof. The term
15 does not include an owner of federal, state, or local governmental royalty interest;
- 16 (5) "Sale price," the total consideration received in exchange for energy minerals;
- 17 (6) "Secretary," the secretary of the South Dakota Department of Revenue and
18 Regulation;
- 19 (7) "Severing," the mining, extracting, or producing of any energy minerals in South
20 Dakota;
- 21 (8) "Severor," a person engaging in the business of severing energy minerals that ~~he~~ the
22 person owns or a person who is the owner of energy minerals and has another person
23 performing the severing of such energy minerals, except that ~~such term shall~~ the term
24 does not include the State of South Dakota or its political subdivisions.

1 Section 96. That § 10-39A-3 be amended to read as follows:

2 10-39A-3. The tax provided for in this chapter shall be collected and administered as
3 provided in chapter 10-39; ~~provided, however, that.~~ However, §§ 10-39-24 to 10-39-26,
4 inclusive, §§ 10-39-28 to 10-39-31, inclusive and § 10-39-35 ~~shall~~ do not apply to the tax
5 imposed by this chapter.

6 Section 97. That § 10-39A-4 be amended to read as follows:

7 10-39A-4. ~~All owners~~ Each owner of interests in energy minerals produced from a single
8 well or mine shall designate an operator to file all required returns and to pay the tax due
9 ~~hereunder, which~~ under this chapter. The tax, subject to any provisions to the contrary in any
10 written contract, lease, or other form of agreement, shall be withheld from distributions ~~which~~
11 that would otherwise be made to each owner by the operator for payment to the state. If any
12 owner ~~or owners~~ of interests in energy minerals produced from a single well or mine ~~fail~~ fails
13 to designate such an operator, then the person designated as operator by the owner ~~or owners~~
14 of the working interest in ~~such~~ the well or mine, or, if no such person has been designated, then
15 the person holding the greatest portion of the working interest in such well or mine, ~~shall be~~
16 ~~deemed to be~~ is the designated operator for purposes of this section.

17 Section 98. That § 10-39A-7 be amended to read as follows:

18 10-39A-7. This tax ~~shall be~~ is in lieu of the tax provided in § 10-39-24 and in lieu of all
19 other occupational, excise, income, privilege, franchise taxes, and any other mineral taxes levied
20 by the State of South Dakota, but ~~shall not be~~ is not in lieu of sales, use, and property taxes.

21 Section 99. That § 10-39A-8.2 be amended to read as follows:

22 10-39A-8.2. The dollar balance in the energy impact fund ~~shall~~ may not exceed one hundred
23 thousand dollars. Any excess over one hundred thousand dollars shall be credited to the state
24 general fund.

1 Section 100. That § 10-39A-12 be amended to read as follows:

2 10-39A-12. Nothing in §§ 10-39A-11 to 10-39A-14, inclusive, ~~shall be construed to obligate~~
3 ~~a~~ obligates any person or corporation to prepay a severance tax except under voluntary
4 agreement. Any action by a county commissioner or any other public official to compel
5 involuntary prepayment of severance tax ~~shall constitute~~ constitutes malfeasance of office.

6 Section 101. That § 10-39A-13 be amended to read as follows:

7 10-39A-13. No agreement for prepayment of severance tax ~~will~~ may involve funds other
8 than those to be returned to a county under the provisions of subdivision 10-39A-8(1).

9 Section 102. That § 10-43-5 be amended to read as follows:

10 10-43-5. The tax referred to in §§ 10-43-2 and 10-43-2.1 is in lieu of all other taxes and
11 licenses, state, county, and local, except taxes upon the institutions' real property, taxes upon
12 the institutions' leased sites, ~~and taxes upon~~ taxes upon tangible personal property not normally used in
13 extension of credit or acceptance of deposits, and the retail occupational sales tax or the use tax
14 on tangible personal property; ~~provided, however, that.~~ However, tangible personal property
15 acquired by the financial institution through a foreclosure proceeding ~~shall be~~ is exempt from
16 such other taxes. The institutions taxed by §§ 10-43-2 and 10-43-2.1 are exempt from other net
17 income taxation by this state.

18 Section 103. That § 10-43-34 be amended to read as follows:

19 10-43-34. Every corporation taxable under this chapter shall make a return and the ~~same~~
20 return shall be sworn to by the president, vice-president, or other principal officer, and by the
21 treasurer or assistant treasurer. Before a corporation ~~shall~~ may be dissolved and its assets
22 ~~distributed it,~~ the corporation shall make a return for any settlement of the tax for any income
23 earned in the income year up to its final date of dissolution.

24 Section 104. That § 10-43-46 be amended to read as follows:

1 10-43-46. Any person, corporation, or any officer or employee of a corporation, or member
2 or employee of any partnership, who, with intent to evade any of the requirements of this
3 chapter or any lawful requirements of the secretary of revenue and regulation pursuant to this
4 chapter, makes a false or fraudulent return or statement or supplies false or fraudulent
5 information is guilty of a Class 1 misdemeanor. In addition ~~he, the person, corporation, officer,~~
6 employee, or member is liable for a civil penalty of not more than five thousand dollars, to be
7 recovered by the attorney general, in the name of the state. ~~Such~~ The civil penalty is in addition
8 to all other penalties in this chapter.

9 Section 105. That § 10-43-51 be amended to read as follows:

10 10-43-51. If the secretary of revenue and regulation discovers from the examination of the
11 return or otherwise that the income of the taxpayer, or any portion ~~thereof~~ of the income, has
12 not been listed in the return, or that no return was filed when one was due, ~~he~~ the secretary may
13 at any time within five years after the time when ~~such~~ the return was due, determine the correct
14 amount of the tax together with interest and penalty as provided in § 10-59-6. The ~~amount~~
15 ~~thereof~~ tax, interest, and penalty shall be paid within ten days after the secretary of revenue and
16 regulation ~~shall have~~ has given notice ~~thereof~~ of the tax, interest, and penalty to the taxpayer by
17 registered or certified mail.

18 Section 106. That § 10-43-63 be amended to read as follows:

19 10-43-63. ~~All~~ Any delinquent tax ~~shall constitute~~ constitutes a debt due to the State of South
20 Dakota and may be collected by action brought by the secretary of revenue and regulation in a
21 court of competent jurisdiction. No exemptions from execution of a judgment so obtained ~~shall~~
22 ~~be~~ are permitted except those made absolute by the exemption statutes of this state.

23 Section 107. That § 10-43-64 be amended to read as follows:

24 10-43-64. ~~Whenever~~ If any taxpayer liable to pay a tax or penalty imposed refuses or

1 neglects to pay the ~~same tax or penalty~~, the amount, including any interest, penalty, or addition
2 to ~~such the~~ tax, together with the costs that may accrue in addition ~~thereto, shall be~~ to the tax,
3 penalty, and interest, constitute a lien in favor of the State of South Dakota upon all property and
4 rights to property, whether real or personal, belonging to ~~said the~~ taxpayer.

5 The lien ~~aforesaid shall attach~~ attaches at the time the tax becomes due and payable and ~~shall~~
6 ~~continue~~ continues until the liability for ~~such the~~ amount is satisfied.

7 Section 108. That § 10-43-65 be amended to read as follows:

8 10-43-65. The register of deeds of each county shall prepare and keep in ~~his~~ the office of the
9 register of deeds a book to be known as "index of income tax liens," so ruled as to show in
10 appropriate columns the following data, under the names of taxpayers, arranged alphabetically:

- 11 (1) The name of the taxpayer;
- 12 (2) The name "State of South Dakota" as claimant;
- 13 (3) Time notice of lien was received;
- 14 (4) Date of notice;
- 15 (5) Amount of lien then due;
- 16 (6) When satisfied.

17 Section 109. That § 10-43-66 be amended to read as follows:

18 10-43-66. In order to preserve the lien provided by § 10-43-64 against subsequent
19 mortgagees, purchasers, or judgment creditors for value and without notice of the lien, on any
20 property situated in a county, the secretary of revenue and regulation shall file with the register
21 of deeds of the county; in which ~~said the~~ property is located; a notice of ~~said the~~ lien; The notice
22 of lien shall be signed by the secretary ~~or his deputy and in such form as he shall elect, but~~
23 containing, shall be in a form determined by the secretary, and shall contain the information
24 prescribed in § 10-43-65 for the register of deeds' index.

1 Section 110. That § 10-43-67 be amended to read as follows:

2 10-43-67. The register of deeds shall endorse on each notice of lien the day, hour, and
3 minute when received and preserve the same, and shall forthwith notice. The register of deeds
4 shall, without delay, index ~~said~~ the notice in ~~said~~ the index book and shall forthwith
5 immediately record ~~said~~ the lien in the manner provided for recording real estate mortgages, ~~and~~
6 ~~the said lien shall be~~. The lien is effective from the time of ~~the indexing thereof~~ the lien is
7 indexed.

8 Section 111. That § 10-43-69 be amended to read as follows:

9 10-43-69. Upon the payment of a tax as to which the secretary of revenue and regulation has
10 filed notice with a register of deeds, the secretary of revenue and regulation shall forthwith
11 immediately file with ~~said~~ the register of deeds a satisfaction of ~~said tax and the tax~~. The register
12 of deeds shall enter ~~said~~ the satisfaction on the notice on file in ~~his~~ the office of the register of
13 deeds and indicate ~~said~~ that fact on the index ~~aforesaid~~.

14 Section 112. That § 10-43-70 be amended to read as follows:

15 10-43-70. After a notice of lien has been filed as provided in § 10-43-66, the secretary of
16 revenue and regulation ~~or his agents~~ may at any time require the county treasurer to issue a
17 distress warrant in the same form as provided by statutes relating to distress warrant for mobile
18 home taxes pursuant to chapter 10-22 and to deliver ~~said~~ the warrant to the sheriff of the county.
19 ~~Immediately upon~~ Upon receipt of the warrant, the sheriff shall, without delay, proceed to
20 collect the tax by seizure and sale of personal property in the manner provided in the statutes
21 relating to collection by distress warrant and shall remit the tax so collected to the county
22 treasurer. For such services, the sheriff ~~shall be permitted to~~ may collect from the taxpayer and
23 retain the compensation provided in statute prescribing compensation of sheriff for distress
24 warrant procedure.

1 Section 113. That § 10-43-71 be amended to read as follows:

2 10-43-71. ~~When~~ If the sheriff is unable to find property of the taxpayer ~~which~~ that may be
3 seized and sold, ~~he~~ the sheriff shall, within thirty days after receipt of the warrant, endorse upon
4 the face of the warrant the word, uncollectible, and return the warrant to the county treasurer.

5 Section 114. That § 10-43-72 be amended to read as follows:

6 10-43-72. Failure or refusal of the county treasurer to issue a distress warrant ~~when~~ if
7 requested to do so, or of the sheriff to attempt to execute the ~~same~~, ~~shall make~~ warrant, makes
8 the officer failing to perform ~~his~~ the officer's duty personally liable for the delinquent tax, ~~and~~
9 ~~said~~. The tax may be recovered in an action brought against ~~him and his~~ the officer and the
10 officer's sureties by the secretary of revenue and regulation.

11 Section 115. That § 10-43-73 be amended to read as follows:

12 10-43-73. The payment of the tax levied by this chapter ~~shall be~~ is, in addition to all other
13 licenses and taxes imposed by the laws of this state, a condition precedent to the engaging or
14 continuing to engage in a business or occupation within this state, ~~and default~~. Default in the
15 payment of taxes as ~~herein provided shall constitute~~ provided in this chapter constitutes cause
16 for injunction in any court of competent jurisdiction upon application of the secretary of revenue
17 and regulation for an order and judgment restraining and enjoining any delinquent taxpayer from
18 engaging or continuing to engage in an occupation or business within this state.

19 Section 116. That § 10-56-2 be amended to read as follows:

20 10-56-2. If requested by the secretary of revenue and regulation, the secretary of the
21 Department of Transportation ~~or his designee~~, a county commissioner, or a sheriff, the county
22 treasurer shall issue a distress warrant against any person whose taxes are delinquent.

23 Section 117. That § 10-56-6 be amended to read as follows:

24 10-56-6. Upon receipt of a distress warrant from the county treasurer showing delinquent

1 taxes, the sheriff shall ~~immediately and, without delay,~~ diligently proceed, in accordance with
2 §§ 10-56-8 to 10-56-21, inclusive, to collect all taxes shown to be delinquent by each distress
3 warrant. ~~His failure~~ Failure by the sheriff to so proceed is nonfeasance of office and subjects that
4 sheriff to removal from office in the manner provided by § 10-56-7.

5 Section 118. That § 10-56-8 be amended to read as follows:

6 10-56-8. Before seizing any property, the sheriff shall ascertain from the records of the
7 Office of the Register of Deeds, the amount of any mortgages, conditional sales contracts, or
8 other liens upon the property, and also the names and addresses of the lien holders. If the
9 assessment blank is on file with the county auditor, the sheriff shall procure a copy from ~~him~~
10 the county auditor of the assessment blank upon which the tax is based.

11 Section 119. That § 10-56-9 be amended to read as follows:

12 10-56-9. In making the seizure of property, the sheriff shall first seize ~~that property which~~
13 that is not encumbered by any lien of record. The sheriff may seize encumbered property if, after
14 due diligence, ~~he~~ the sheriff is unable to collect the tax from unencumbered property.

15 Section 120. That § 10-56-10 be amended to read as follows:

16 10-56-10. The warrant ~~shall be~~ is deemed executed by serving a copy of it together with the
17 notice of levy on the owner of the property or, if ~~he~~ the owner cannot be conveniently found,
18 by serving a copy of it on the person from whose possession the property is taken or by mailing
19 copies of the warrant to the last known address of the owner. If no one in possession can be
20 found, nor an address of the owner can be ascertained, then the warrant shall be executed by
21 seizure of the property and by posting a copy of the distress warrant and the notice of levy on
22 the bulletin board established pursuant to § 17-3-1.

23 Section 121. That § 10-56-12 be amended to read as follows:

24 10-56-12. The sheriff shall ~~immediately, without delay,~~ fix a time and place for sale of the

1 property seized, which ~~time must be not~~ may not be less than ten nor more than thirty days after
2 the seizure, ~~and which.~~ The place may be at any public place in the county or where the property
3 is located ~~in the case of property incapable of being~~ if the property cannot be conveniently
4 moved. Notice of the sale shall be given by posting the notice in three public places in the
5 county, at least ten days before the date of the sale. The notice shall state the time and place of
6 the sale, the name of the person against whom the distress warrant was issued, a description of
7 the property, and the amount of the tax claim; The notice shall identify the particular taxes for
8 which the sale is to be made; and shall refer to the warrant under which the sale is to be held.
9 Copies of the notice shall also be mailed to all encumbrancers of record at their addresses shown
10 in the encumbrances. If no address appears in the encumbrances, mailing the notice is not
11 required. The failure to mail notice does not invalidate the sale, but the encumbrancer has
12 recourse against the sheriff for any damage ~~he~~ the encumbrancer may show.

13 Section 122. That § 10-56-13 be amended to read as follows:

14 10-56-13. If, after the seizure and any time before sale, the property owner, or any interested
15 person, or anyone in ~~his~~ the owner's or the interested person's behalf, pays the sheriff the amount
16 of the tax with the legal interest, penalty, and costs ~~which~~ that are due, then the levy or seizure
17 is abated. The property shall be released to the owner, at the place it may then be and a receipt
18 shall be given for the taxes paid.

19 Section 123. That § 10-56-14 be amended to read as follows:

20 10-56-14. The county treasurer shall furnish the sheriff with triplicate receipts on which is
21 printed: "Sheriff's receipt for taxes." The sheriff shall issue receipts for any taxes, interest,
22 penalties, fees, or costs collected. The original shall be delivered to the payor and the duplicate
23 receipt shall be filed immediately with the treasurer, who shall cancel the tax on the duplicate
24 tax list in ~~his~~ the treasurer's office and enter ~~thereon~~ on the duplicate tax list the date and number

1 of the sheriff's receipt. The treasurer shall then issue a regular tax receipt for the full amount and
2 have the receipt promptly delivered to the tax debtor.

3 Section 124. That § 10-56-17 be amended to read as follows:

4 10-56-17. If the property cannot be sold for want of bidders, the sheriff shall return the
5 property to the possession of the person from whom or to the place where ~~he~~ the sheriff took the
6 ~~same~~ property, and the taxes shall be returned as unpaid.

7 Section 125. That § 10-56-18 be amended to read as follows:

8 10-56-18. The sheriff shall make returns to the county treasurer on all distress warrants as
9 soon as executed, and at least three months after the date of issue of the warrant, ~~stating~~. The
10 returns shall state the amounts, if any, ~~which that~~ have been collected upon the warrant or that,
11 upon diligent search, no property could be found to collect the tax, ~~and showing~~. The returns
12 shall show the number of miles actually and necessarily traveled in executing each warrant and
13 the number of warrants executed on each trip. If a sale was made under any warrant, ~~he~~ the
14 sheriff shall show the procedure ~~thereof~~ used for the sale, including the giving of notice as
15 required and the time and place of the sale, names, amounts bid and paid by purchasers, and the
16 property sold to each.

17 Section 126. That § 10-56-21 be amended to read as follows:

18 10-56-21. Any surplus remaining after paying the taxes, penalty, interest, and costs shall be
19 returned to the owner or, if ~~he~~ the owner cannot be found, shall be deposited with the clerk of
20 courts for the benefit of any person who may be entitled to it.

21 Section 127. That § 10-56-22 be amended to read as follows:

22 10-56-22. The sheriff shall collect the following fees for collecting taxes: one dollar for
23 making ~~his~~ the sheriff's return on ~~his~~ the sheriff's warrant of authority; one dollar for each levy;
24 one dollar for each sale; and the necessary costs of distress and sale. The fees and costs shall be

1 collected from the tax debtor or ~~his~~ the debtor's property. ~~Where~~ If actual travel is made in
2 collecting taxes, the sheriff shall also collect from the tax debtor or ~~his~~ the debtor's property an
3 additional penalty, in lieu of mileage, equal to fifteen percent of the amount of tax and interest
4 due, which, with all fees and costs collected, shall be credited to the general fund of the county.
5 The sheriff shall receive mileage, at the rate provided by law, for each mile actually and
6 necessarily traveled from the official for whom the tax was collected.

7 Section 128. That § 10-58-6 be amended to read as follows:

8 10-58-6. Every owner or operator ~~is required to~~ shall properly display ~~his~~ the owner's or
9 operator's registration on each machine as prescribed by the Department of Revenue and
10 Regulation ~~and the failure.~~ Failure to so display the prescribed indicia of registration constitutes
11 prima facie evidence that the machine is not registered.

12 Section 129. That § 10-59-4 be amended to read as follows:

13 10-59-4. For the purposes of this chapter, the term, certificate of assessment, ~~is~~ means any
14 certificate issued by the secretary indicating tax, penalty, or interest due. The certificate indicates
15 the type of tax due, the amount of tax due, and the period of time covered by the assessment.
16 The certificate also contains a short statement of the reasons for the assessment. The secretary
17 shall use his or her best judgment in preparing the certificate, but error in the certificate does not
18 relieve a taxpayer of liability for tax, penalty, or interest due under the laws of this state.

19 Section 130. That § 35-1-2 be amended to read as follows:

20 35-1-2. The secretary shall administer the law as set forth in this title, and ~~shall have~~
21 ~~authority to~~ may employ such help and ~~to~~ purchase such equipment and supplies as are
22 necessary for performance of ~~such~~ the secretary's duties.

23 Section 131. That § 35-1-3 be amended to read as follows:

24 35-1-3. Neither the secretary nor any of ~~his employees~~ shall the secretary's employees may,

1 directly or indirectly, have any interest, financial or otherwise, in the production, transportation,
2 storage, or sale of alcoholic beverages.

3 Section 132. That § 35-1-4 be amended to read as follows:

4 35-1-4. No person ~~shall~~ may produce, transport, store, or sell any alcoholic beverage except
5 as authorized under the provisions of this title.

6 Section 133. That § 35-1-5.2 be amended to read as follows:

7 35-1-5.2. No licensee regularly licensed to do business ~~prior to~~ before July 1, 1971, ~~shall~~
8 may be denied renewal of ~~his~~ a license in subsequent years solely by reason of any reduction in
9 the number of licenses that may be authorized or established within any municipality by reason
10 of chapter 211 of the Session Laws of 1971. Any person holding an on-sale dealer's retail license
11 of any of the existing classes or holding a Class Q license issued under the provisions of former
12 subdivision 35-4-2(17) on July 1, 1971, ~~shall be entitled to~~ may be issued an on-sale license
13 from the appropriate governing board having jurisdiction, upon application to the governing
14 board for an on-sale license within appropriate classifications established.

15 Section 134. That § 35-1-5.3 be amended to read as follows:

16 35-1-5.3. It is a Class 2 misdemeanor for any person to consume any intoxicating liquor or
17 to mix or blend any alcoholic beverage with any other beverage, regardless of whether the
18 beverage is an alcoholic beverage, in any public place, other than upon the premises of a
19 licensed on-sale dealer where the alcoholic beverage was purchased from the dealer for on-sale
20 purposes. For purposes of this section ~~"public place"~~, the term, public place, means any place,
21 whether in or out of a building, commonly and customarily open to or used by the general public
22 and any street or highway. However, this section does not apply if the county commissioners
23 or the governing body of the municipality, charged with the approval of alcoholic beverage
24 license issuance, in their respective jurisdictions, ~~shall~~ give prior authorization for persons to

1 consume or blend alcoholic beverages, but not to engage in the sale ~~thereof~~ of the alcoholic
2 beverages, in or upon property described by the authorizing governmental subdivision, ~~which~~
3 and if the property is publicly owned, or owned by a nonprofit corporation. The permit period
4 ~~shall~~ may not exceed twenty-four hours, and hours of authorized consumption ~~shall~~ may not
5 exceed those permitted for on-sale licensees.

6 Section 135. That § 35-1-7 be amended to read as follows:

7 35-1-7. Any person who, in any application, report, or statement; filed with the secretary of
8 revenue, knowingly makes a false statement as to any matter required by any provision of this
9 title to be set forth in ~~such~~ the application, report, or statement, ~~shall be~~ is guilty of a Class 6
10 felony.

11 Section 136. That § 35-1-8 be amended to read as follows:

12 35-1-8. No manufacturer, distributor, wholesaler, or transporter ~~shall~~ may sell or deliver any
13 package containing alcoholic beverages manufactured or distributed ~~by him~~ for resale, unless
14 the person to whom ~~such~~ the package is sold or delivered is authorized to receive ~~such~~ the
15 package in accordance with the provisions of this title.

16 Section 137. That § 35-1-8.1 be amended to read as follows:

17 35-1-8.1. The provisions of this title relating to licensing and taxation ~~shall~~ do not apply to
18 the purchase and sale of wines used by ordained rabbis, priests, ministers, or pastors of any
19 church or established religious organization for sacramental purposes within the state.

20 Section 138. That § 35-1-9 be amended to read as follows:

21 35-1-9. No licensee under this title ~~shall~~ may keep or store any alcoholic beverages at any
22 place within the state other than on the premises where ~~he~~ the licensee is authorized to operate;
23 ~~except that.~~ However, any such licensee may store such alcoholic beverages in a warehouse
24 licensed under § 35-4-44 or with a bonded warehouse ~~which~~ that has qualified under § 35-4-45;

1 ~~such storage to be. Such storage is~~ subject to such rules and regulations as may be issued by the
2 ~~secretary in compliance with chapter 1-26 with reference thereto, and except that as to rules~~
3 ~~promulgated by the secretary pursuant to chapter 1-26. However, in~~ localities where there is no
4 such bonded warehouse, the secretary may, by rules and regulations adopted in compliance with
5 ~~promulgated pursuant to~~ chapter 1-26, provide for storage of malt beverages.

6 Section 139. That § 35-2-1.1 be amended to read as follows:

7 35-2-1.1. ~~All applications~~ Any application under this title for a manufacturer, distiller,
8 wholesaler, solicitor, transporter, carrier, and or dispenser licenses, ~~and all applications for~~
9 ~~licenses~~ license, and any application for a license to be issued to ~~counties and municipalities a~~
10 county or municipality shall be initially submitted to the secretary who ~~shall have discretion to~~
11 may approve or disapprove the ~~applications~~ application depending on whether ~~he~~ the secretary
12 deems the applicant a suitable person to hold ~~such~~ the license and whether ~~he~~ the secretary
13 considers the proposed location suitable.

14 Section 140. That § 35-2-1.2 be amended to read as follows:

15 35-2-1.2. ~~All applications for retail licenses except those~~ Any application for a retail license,
16 except as set forth in § 35-2-1.1, shall be submitted to the governing board of the municipality
17 within which the applicant intends to operate, or if outside the corporate limits of a municipality,
18 to the board of county commissioners of the county in which the applicant seeks to operate. The
19 application shall be accompanied by the required fee. The governing board ~~shall have discretion~~
20 to may approve or disapprove the application depending on whether it the governing board
21 deems the applicant a suitable person to hold ~~such~~ the license and whether it the governing
22 board considers the proposed location suitable.

23 Section 141. That § 35-2-2.1 be amended to read as follows:

24 35-2-2.1. Every application for a license under this chapter ~~must~~ shall include an agreement

1 by the applicant that ~~his~~ the applicant's premises, for the purposes of search and seizure laws of
 2 the state and any ordinances of the municipality wherein license is applied for ~~shall be,~~ are
 3 considered public premises, ~~and that such.~~ In addition, the agreement shall specify that:

4 (1) The premises and all buildings, safes, cabinets, lockers, and storerooms ~~thereon will~~
 5 on the premises are at all times, on demand of the secretary, ~~his deputy, inspector,~~
 6 ~~agent,~~ the attorney general ~~and his agents, and,~~ or officers charged with law
 7 enforcement in the county or municipality, ~~their respective deputies, inspectors, or~~
 8 ~~agents,~~ be open to inspection, and that all his;

9 (2) All of the applicant's records and books dealing with the sale and ownership of
 10 alcoholic beverages shall be open to said persons are open to the persons specified
 11 in subdivision (1) for such inspection, and that the; and

12 (3) The application and license issued thereon shall on the application constitute a
 13 contract between ~~himself~~ the applicant and the state and the county or municipality
 14 having jurisdiction entitling them, for the purpose of enforcing the law, rules, and
 15 ordinances, to inspect ~~his~~ the applicant's premises and books at any time.

16 Section 142. That § 35-2-3 be amended to read as follows:

17 35-2-3. No license for the on- or off-sale at retail of alcoholic beverages, as ~~the same~~ those
 18 terms are defined and classified under the provisions of this title, ~~shall~~ may be granted to an
 19 applicant for any such license, except after public hearing, upon notice, as provided for in §§ 35-
 20 2-4 and 35-2-5.

21 Section 143. That § 35-2-4 be amended to read as follows:

22 35-2-4. If any resident of an incorporated municipality ~~shall file~~ files with the auditor or
 23 finance officer of the municipality, or if any resident of the county ~~shall file~~ files with the county
 24 auditor of any county, a written request that ~~he~~ the resident be notified of the time and place of

1 hearing upon any specified application ~~or applications for licenses~~ for a license for the on- or
2 off-sale at retail of alcoholic beverages, the auditor or finance officer, as the case may be, shall
3 give notice to ~~such person, by mail a sufficient length of time prior to~~ the resident. The notice
4 shall be by mail and shall be given a sufficient length of time before the hearing upon ~~such the~~
5 application so as to allow ~~such person~~ the resident a reasonable opportunity to be present.

6 Section 144. That § 35-2-5 be amended to read as follows:

7 35-2-5. The governing board of any incorporated municipality or the board of county
8 commissioners of any county, before which ~~board~~ applications for licenses ~~of the kind referred~~
9 ~~to~~ referenced in § 35-2-3 are presented, shall fix the time and place for hearing upon all such
10 applications ~~which may come before such board and the~~ that come before the board. The auditor
11 or finance officer of ~~such the~~ board shall publish notice once in the official newspapers of ~~such~~
12 the municipality or county, ~~as the case may be, which. The~~ notice shall be headed "Notice of
13 Hearing Upon Applications for Sale of Alcoholic Beverages," shall state the time and place
14 when and where such applications will be considered by ~~said the~~ board, and shall state that any
15 person interested in the approval or rejection of any such application may appear and be heard;
16 ~~which. The~~ notice shall be published at least one week ~~prior to such~~ before the hearing. At the
17 time and place so fixed, ~~such the~~ board shall consider ~~such applications and all objections~~
18 ~~thereto, if any, prior to final decision thereon~~ each application and any objection to the
19 application before making its final decision on the application.

20 Section 145. That § 35-2-6.6 be amended to read as follows:

21 35-2-6.6. No licensee ~~shall~~ may permit any person to become intoxicated on the premises
22 described on the license.

23 Section 146. That § 35-2-8 be amended to read as follows:

24 35-2-8. ~~In case of the death of~~ If an individual licensee under this title, other than a solicitor

1 or dispenser licensee under chapter 35-4, dies, the personal representative of ~~such the~~ deceased
 2 licensee may succeed to all of the rights of the deceased licensee under ~~such the~~ license. By
 3 operating under ~~such the~~ license, ~~such the~~ personal representative ~~shall conclusively be deemed~~
 4 ~~to have agreed~~ agrees to all of the terms and conditions of ~~such the~~ license; and ~~to be~~ is subject
 5 to all of the liabilities and responsibilities of such a licensee. ~~All bonds~~ Any bond executed
 6 under the provisions of this title ~~as to a licensee where the license may pass to the personal~~
 7 ~~representative shall be deemed to include such~~ includes the personal representative as a
 8 principal if the license passes to the personal representative.

9 Section 147. That § 35-2-9 be amended to read as follows:

10 35-2-9. Any licensee authorized to deal in alcoholic beverages, upon termination of ~~his the~~
 11 license, may at any time within thirty days ~~thereafter~~ after the termination of the license sell the
 12 whole or any part of the alcoholic beverages included in ~~his the licensee's~~ stock in trade at the
 13 time of ~~such the~~ termination; to any wholesaler licensed under this title to deal in the alcoholic
 14 beverages so purchased by ~~such the~~ wholesaler. ~~Complete report of such purchase must be made~~
 15 ~~by the wholesaler~~ The wholesaler shall make a complete report of the purchase to the secretary
 16 of revenue and regulation.

17 Section 148. That § 35-2-10 be amended to read as follows:

18 35-2-10. ~~Any license issued under this title may, in compliance with chapter 1-26, be~~
 19 ~~revoked or suspended by the secretary~~ The secretary, in compliance with chapter 1-26, may
 20 revoke or suspend any license issued under this title upon proof of violation by the licensee, his
 21 by the licensee's agents or employees, or by the manager or contractual operators of retail
 22 establishments and their agents or employees operating under a county or municipal license, of
 23 any any of the following:

24 (1) Any provision of this title,~~or any:~~

1 (2) ~~Any rule or regulation adopted by the secretary as provided in promulgated pursuant~~
2 ~~to this title, or violation of, or~~

3 (3) ~~Any ordinance or regulation of relevant to alcoholic beverage control that has been~~
4 ~~adopted by the political subdivision issuing the license relevant of alcoholic beverage~~
5 ~~control.~~

6 For ~~licensees~~ any licensee with multiple alcoholic beverage licenses for the same premises,
7 upon suspension or revocation of any license pursuant to this chapter, ~~such~~ the licensee shall
8 cease operation under all alcoholic beverage licenses held by ~~such~~ the licensee for the same
9 premises for the same period as the suspension or revocation.

10 Section 149. That § 35-2-12 be amended to read as follows:

11 35-2-12. ~~It shall be the duty of the secretary, when he~~ If the secretary receives information
12 of violation by any licensee of any provision of this title, ~~to make immediate investigation~~
13 ~~thereof the secretary shall, without delay, investigate the alleged violation.~~ Any person may file
14 with the secretary a duly verified complaint as to any such violation by any such licensee, ~~and~~
15 ~~immediately upon receipt thereof.~~ Upon receipt of the complaint, the secretary shall, without
16 delay, make a thorough investigation ~~and if.~~ If there is substantial evidence to support the charge
17 made in ~~such~~ the complaint, the secretary ~~must~~ shall cause proceedings to be instituted for
18 revocation of the license.

19 Section 150. That § 35-2-19 be amended to read as follows:

20 35-2-19. Upon service of notice of a decision or order for revocation of the license; on the
21 licensee, ~~all of his rights under such license shall~~ the licensee's rights under the license terminate
22 ten days after ~~such~~ the notice, except in the event of a stay on appeal.

23 Section 151. That § 35-2-20 be amended to read as follows:

24 35-2-20. ~~Any~~ No licensee under this title, whose license is revoked, ~~shall not for a year~~

1 ~~thereafter~~ may be granted any license under this title for one year after the revocation. ~~When~~
 2 ~~within such year application for a license is made by~~ If any relative of any such former licensee,
 3 as relative is defined by § 35-2-6.5, or any of ~~his~~ the former licensee's employees or former
 4 employees, applies for any such license before the one- year period has elapsed, the license may
 5 be granted only upon affirmative and satisfactory proof that ~~such~~ the former licensee ~~will have~~
 6 has no interest ~~whatsoever~~ in the business.

7 Section 152. That § 35-2-21 be amended to read as follows:

8 35-2-21. If in any proceeding under this chapter a violation is established, but the secretary
 9 is satisfied that the nature and the circumstances ~~thereof~~ of the violation were such that a
 10 suspension of the license would be adequate, ~~he~~ the secretary may, instead of revoking the
 11 license, suspend it for a period not exceeding sixty days. The suspension ~~shall become~~ is
 12 effective twenty-four hours after service of notice ~~thereof~~ of the suspension upon the licensee.
 13 During the period of the suspension, the licensee may not exercise any rights or privileges under
 14 the license. The secretary may, in lieu of suspending or revoking the license, accept a monetary
 15 offer in compromise in settlement of any proceeding under this chapter. The amount of the offer
 16 in compromise may not exceed seventy-five thousand dollars. The secretary may also recover
 17 the actual costs of investigation and prosecution.

18 Section 153. That § 35-3-1 be amended to read as follows:

19 35-3-1. Any incorporated municipality ~~shall have power to~~ may provide by ordinance for
 20 police supervision and enforcement of the provisions of this title as to any ~~licensees who operate~~
 21 licensee who operates within one mile of the territorial limits of ~~such~~ the municipality.

22 Section 154. That § 35-3-6 be amended to read as follows:

23 35-3-6. The ~~word "municipality,"~~ term, municipality, as used in §§ 35-3-7 to 35-3-27,
 24 inclusive, ~~shall be construed to include all incorporated municipalities and to all organized~~

1 ~~townships wherein are situated unincorporated towns~~ includes any incorporated municipality
2 and any organized township in which an unincorporated town is situated.

3 Section 155. That § 35-3-7 be amended to read as follows:

4 35-3-7. Any municipality may, by vote of its electors, as provided in §§ 35-3-8 to 35-3-23,
5 inclusive, determine whether or not alcoholic beverages, except malt beverages, may be sold
6 within the municipality by on-sale dealers; ~~and~~. The municipality may also in the same manner
7 determine whether the municipality shall procure a license or licenses for the sale of alcoholic
8 beverages, except malt beverages, at retail, ~~or in case such~~, if the municipality is engaged in
9 such a business, whether ~~such~~ the license or licenses shall be renewed.

10 Section 156. That § 35-3-9 be amended to read as follows:

11 35-3-9. Except as otherwise expressly provided in this chapter, the form of a petition under
12 § 35-3-8, the manner of calling ~~such~~ the election, the giving provision of notice ~~thereof of the~~
13 election, the conduct of the election, and the canvass and return of votes; shall be as set forth
14 by the provisions of this code relative to elections in incorporated municipalities ~~as to~~ for
15 referred or initiated ordinances; ~~provided however, that as to~~. However, for such elections in
16 organized townships, ~~such~~ the election shall be called, notice ~~thereof of the election~~ given, and
17 the election held as set forth in the provisions of this code relative to special township meetings.

18 Section 157. That § 35-3-11 be amended to read as follows:

19 35-3-11. ~~When~~ If at ~~such~~ the election on the question specified in § 35-3-10, the majority
20 vote is in the affirmative, on-sale licenses to operate in the municipality may be granted as
21 otherwise provided in this code, unless the same question is again submitted and the majority
22 vote is in the negative. ~~When~~ If the majority vote on ~~such~~ the question is in the negative, all
23 on-sale licenses ~~shall~~ are thereby ~~be~~ terminated thirty days after the canvass of the vote at ~~such~~
24 the election, and no on-sale ~~licenses~~ license to operate in the municipality ~~shall~~ may thereafter

1 be granted unless the same question is again submitted and the majority vote is in the
2 affirmative, or unless there is submitted the question of a license ~~or licenses~~ being granted to
3 the municipality and the majority vote ~~thereon~~ on the question is in the affirmative.

4 Section 158. That § 35-3-16 be amended to read as follows:

5 35-3-16. ~~In the event~~ If the parties referred to in § 35-3-15 agree to arbitration, the board of
6 arbitration shall consist of one arbitrator to be selected by the municipality, one selected by the
7 former licensee, and a third ~~shall be~~ selected by both of the ~~two~~ selected arbitrators. The
8 determination of any arbitrators shall govern, ~~except that the~~. However, no municipality as
9 defined in § 35-3-6 ~~shall in no event be~~ is bound to purchase any fixtures, equipment, or stock
10 acquired by any former licensee after the filing of the petition submitting the question specified
11 in § 35-3-12. ~~Such~~ The determination as to value of ~~such~~ the fixtures, equipment, and stock
12 ~~shall be~~ is binding on the parties, ~~provided that the same does~~. However, the value may not
13 exceed the invoice price plus any federal tax paid thereon subsequent to its acquisition, and
14 ~~provided further that~~ the aggregate of the stock ~~does~~ may not exceed the level of the average
15 inventory of such stock carried by the dealer for the two years immediately preceding the
16 holding of the election providing for the municipal sale of alcoholic beverages under chapter
17 35-4.

18 Section 159. That § 35-3-18 be amended to read as follows:

19 35-3-18. Every municipal liquor establishment shall be operated and conducted under the
20 direction of the governing body of the municipality, ~~and the~~. The governing body may, ~~at all~~
21 ~~times, if they deem it necessary or advisable,~~ fix the prices to be charged on all sales of liquor.
22 ~~When such~~ If the prices are fixed by the governing body, the manager and ~~his~~ the manager's
23 assistants shall conform ~~thereto~~ to the prices in the making of all sales.

24 Section 160. That § 35-3-20 be amended to read as follows:

1 35-3-20. A copy of each purchase invoice for liquor store supplies delivered to and signed
2 by the municipal liquor store manager or ~~his~~ the manager's assistant; shall be filed monthly with
3 the municipal auditor or finance officer covering purchases for each establishment, ~~and such.~~
4 The invoice shall clearly distinguish between off-sale and on-sale purchases; and shall indicate
5 the license classification under which all purchases are made.

6 Section 161. That § 35-3-21 be amended to read as follows:

7 35-3-21. Every municipality engaged in the sale of alcoholic beverages, pursuant to the
8 provisions of chapter 35-4, wherein a business under an on-sale and off-sale license is
9 conducted, shall ~~be required to~~ make a separate accounting of all transactions involving
10 purchases, sales, and inventories pertaining to the business conducted under each of ~~said~~
11 ~~licenses, and shall be required to~~ the licenses. The municipality shall maintain appropriate
12 records and methods of accounting for an accurate determination of the sales returns and gross
13 profits resulting from the operation of the business under each of ~~said~~ the licenses.

14 Section 162. That § 35-3-24 be amended to read as follows:

15 35-3-24. ~~When~~ If, at a special election on the questions specified in subdivisions 35-3-23(1)
16 and (2), the majority vote is in the negative on the question in subdivision (1) ~~then it shall be~~
17 ~~the duty of~~, the governing board of the municipality ~~to refuse to make application~~ may not apply
18 for the renewal of either the off-sale license ~~and or~~ the on-sale license ~~and if~~. If the majority vote
19 is in the negative on the question in subdivision (2) ~~then it shall be the duty of~~, the governing
20 board of the municipality ~~to refuse to make application~~ may not apply for the renewal of the
21 on-sale license.

22 Section 163. That § 35-3-25 be amended to read as follows:

23 35-3-25. ~~Whenever~~ If the result of an election held after the establishment of a business
24 pursuant to this chapter ~~is such that the municipality is required to cease such~~ requires the

1 municipality to cease operation of the business, or any part thereof of the business, the
2 governing board of such the municipality is authorized to proceed to liquidate said may liquidate
3 the business and the assets thereof in such manner as may be of the business in a manner
4 determined by resolution of such the governing board, not inconsistent with the provisions of
5 this title.

6 Section 164. That § 35-3-26 be amended to read as follows:

7 35-3-26. ~~When~~ If the question of whether on-sale licenses shall be granted has been
8 submitted to the voters of a municipality, the same question ~~shall~~ may not be resubmitted within
9 a year thereafter. ~~When there has been submitted to the voters of a municipality~~ If either of the
10 questions specified in §§ 35-3-12 and 35-3-23 has been submitted to the voters of a
11 municipality, neither of said questions shall question may be submitted within a year thereafter.

12 Section 165. That § 35-3-27 be amended to read as follows:

13 35-3-27. ~~Whenever any then~~ If an existing license is terminated as the result of a special
14 election, ~~there shall be refunded to the licensee a pro rata portion of the license fee paid to him~~
15 shall be refunded to the licensee according to the portion of the license period that has not
16 elapsed upon ~~such the~~ termination. Such refunds The refund shall be made by the state and the
17 municipality pro rata according to the portions of ~~such fees~~ the fee retained respectively by the
18 state and the municipality.

19 Section 166. That § 35-4-5.1 be amended to read as follows:

20 35-4-5.1. No manufacturer, rectifier, distiller, jobber, or distributor of distilled spirits, or a
21 copartner or a majority stockholder of a parent or subsidiary corporation directly or indirectly
22 interested in any of them ~~shall~~ may be granted a wholesale license; or be granted a renewal of
23 such a license under this chapter.

24 Section 167. That § 35-4-5.5 be amended to read as follows:

1 35-4-5.5. The provisions of § 35-4-5.1, as to the granting of a wholesale license and the
2 renewal thereof ~~shall~~ of a wholesale license do not apply to any individual, copartnership, or
3 corporation who or which on July 1, 1970, was the holder of a wholesaler's license.

4 Section 168. That § 35-4-13 be amended to read as follows:

5 35-4-13. If by reason of the annexation of territory by any municipal corporation or county,
6 the premises of an on-sale licensee ~~shall be~~ are transferred from one jurisdiction to another, ~~such~~
7 the licensee ~~shall~~ may continue to legally operate until the expiration of ~~such~~ the license.
8 Thereafter, ~~such~~ the licensee ~~shall make application for his license~~ may apply for renewal of the
9 license to the governing board ~~which~~ that has jurisdiction of the licensed premises, ~~and such~~
10 ~~license shall~~. The license application may not be denied on the grounds that, by the issuance of
11 ~~such~~ the license, more on-sale licenses are in existence than is permitted by the limitations of
12 this chapter.

13 Section 169. That § 35-4-14.1 be amended to read as follows:

14 35-4-14.1. Any municipality with a population in excess of thirty-five thousand ~~which~~ that
15 operates an airport pursuant to chapter 50-7 and ~~which~~ holds a valid license under § 35-4-14 and
16 subdivision 35-4-2(11), ~~shall~~ may, in addition to the airport use under § 35-4-14, ~~be authorized~~
17 ~~to use~~ such the license at any bona fide convention activity or at any bona fide entertainment
18 event, including ~~but not limited to~~, any theatrical or musical performance, rodeo, or traveling
19 show if the event is held at a convention hall established pursuant to chapter 9-52 or chapter 9-
20 53. However, the selling, serving, or dispensing of any alcoholic beverage at ~~such~~ the bona fide
21 entertainment event may not occur more than one hour before the commencement of the event
22 or at any time after the event is concluded; and such selling ~~shall~~ may only be conducted within
23 areas designated for that purpose.

24 Section 170. That § 35-4-21 be amended to read as follows:

1 35-4-21. An operating agreement under subdivision 35-4-19(2) shall include at least the
2 following provisions:

3 (1) The manager ~~shall be~~ is responsible for all operating expenses, including ~~but not~~
4 ~~limited to~~ taxes, insurance, and license fees, if any.;

5 (2) The manager ~~shall~~ may dispense only liquors supplied by the municipal off-sale
6 establishment.;

7 (3) The agreement shall be for a period of not to exceed five years with the provision of
8 one extension of not to exceed five years in the discretion of the governing board.;

9 (4) Cancellation of the agreement shall be made upon ninety days' written notice by
10 either party.;

11 (5) The manager shall pay for all liquors supplied by the municipal off-sale
12 establishment, the actual cost price, the transportation charges and markup, and such
13 additional compensation or fee as may be mutually agreed upon by both parties.;

14 (6) A complete and detailed record shall be maintained by the municipality of all liquors
15 supplied the on-sale manager ~~and~~. All such liquors ~~so supplied~~ shall be evidenced by
16 prenumbered invoices prepared in triplicate showing the date, quantity, brand, size,
17 and actual cost as set forth in subdivision (5) ~~above~~. ~~Such of this section.~~ The
18 invoices shall bear the signature of the on-sale manager or ~~his~~ the manager's
19 authorized representative. One copy ~~thereof~~ of the invoice shall be retained by the
20 off-sale establishment, one copy shall be retained by the on-sale establishment, and
21 one copy shall be filed with the municipal auditor or clerk. All copies shall be kept
22 as permanent records and made available for reference and audit purposes.

23 Section 171. That § 35-4-23 be amended to read as follows:

24 35-4-23. An operating agreement pursuant to § 35-4-22 shall include at least the provisions

1 required by subdivisions 35-4-21(1) ~~through to~~ (4), ~~both~~ inclusive, and (6), and shall also
2 provide that the manager shall receive as full consideration under the agreement ~~such a~~
3 percentage of the fixed markup from the off-sale establishment under his or her management
4 as ~~may be~~ agreed upon by the governing board of the municipality and the manager after
5 establishing a fixed markup in excess of the actual cost of all liquors supplied by the municipal
6 off-sale licensee. The actual cost shall include cost price and transportation charges. The markup
7 percentage shall be mutually agreed upon by both parties.

8 Section 172. That § 35-4-41 be amended to read as follows:

9 35-4-41. The period covered by licenses under this chapter ~~shall be~~ is from twelve o'clock
10 midnight on the thirty-first day of December to twelve o'clock midnight on the thirty-first day
11 of the next December, ~~except that said license shall be.~~ However, the license is valid for an
12 additional three days ~~provided that~~ if a proper application for a new license is in the possession
13 of the secretary ~~prior to~~ before midnight on the thirty-first day of December when the license
14 expires ~~and the.~~ The full fee shall be charged for any license for a portion of ~~such~~ the period,
15 except as provided in subdivision 35-4-2(1).

16 Section 173. That § 35-4-44 be amended to read as follows:

17 35-4-44. A distiller licensee may maintain warehouses at points other than designated in ~~his~~
18 the distiller's license for temporary storage and distribution of alcoholic beverages, upon filing
19 with the secretary a full and complete description of each such warehouse and upon payment
20 of an additional annual license fee of one thousand dollars for each such warehouse.

21 Section 174. That § 35-4-45 be amended to read as follows:

22 35-4-45. Any bonded warehouse within South Dakota may, upon compliance with the
23 provisions of this section, receive alcoholic beverages for storage purposes. Before ~~so~~ receiving
24 any such beverages, ~~such~~ the bonded warehouse ~~must~~ shall furnish, in addition to any bond

1 previously furnished under the general laws, a bond in the amount of ten thousand dollars
2 guaranteeing that ~~such~~ the bonded warehouse, its officers, employees, and agents will comply
3 with all provisions of this chapter and chapter 35-5 applicable to ~~such~~ the bonded warehouse.
4 The bond ~~must be in such~~ shall be in a form as prescribed by the secretary and shall be approved
5 by and filed with ~~him~~ the secretary.

6 Section 175. That § 35-4-47 be amended to read as follows:

7 35-4-47. Except as provided in §§ 35-2-9 and 35-10-16, distiller and wholesaler licensees
8 ~~shall~~ may purchase or receive alcoholic beverages only from:

- 9 (1) Distillers or wholesalers licensed under this chapter;
- 10 (2) Transportation licensees, including deliveries by ~~such~~ the transportation licensees
11 through a freight, express, or parcel post depot within the municipality where ~~such~~
12 the distiller or wholesaler licensee operates, and including ~~such~~ any beverages so
13 transported that have been imported from outside the state;
- 14 (3) Bonded warehouses as provided in § 35-4-45.

15 Section 176. That § 35-4-52 be amended to read as follows:

16 35-4-52. No distiller or wholesale licensee ~~shall~~ may attempt to promote ~~his sales~~ the sale
17 of liquor by tie-in sales arrangements or by any device such as gifts or other concessions of
18 financial value to a customer, ~~but shall limit his business practice to promoting sales.~~ The
19 distiller or wholesale licensee may promote sales only on the basis of price competition,
20 salesmanship, reliability as a supplier, and other ordinary competitive business practices.

21 Section 177. That § 35-4-60 be amended to read as follows:

22 35-4-60. Except as provided by § 35-4-61, retail licensees ~~shall~~ may buy or receive alcoholic
23 beverages only from wholesale licensees licensed under this chapter. Dispenser licensees ~~shall~~
24 may buy or receive alcohol only, and only from wholesale licensees ~~only~~, or from wholesalers

1 outside the state.

2 Section 178. That § 35-4-60.2 be amended to read as follows:

3 35-4-60.2. A licensee licensed under subdivision 35-4-2(16) or (17) shall purchase the malt
4 beverages ~~he~~ that the licensee sells from the municipality if the municipality in which ~~he~~ the
5 licensee is located is ~~a licensee licensed~~ under subdivision 35-4-2(5) and if the municipality has
6 by ordinance required that such purchases be made from the municipality. A municipality
7 selling malt beverages to any licensee licensed under subdivision 35-4-2(16) or (17) may not
8 charge ~~such~~ the licensee more than five percent above the municipality's cost for malt beverages
9 plus freight unless the municipality has operating agreements in effect on April 1, 1988, for its
10 on-sale alcoholic beverage licensees licensed pursuant to subdivision 35-4-2(4) and imposes a
11 mark-up higher than five percent for malt beverages. The municipality shall charge all such
12 ~~licensee's~~ licensees the same price for malt beverages.

13 Section 179. That § 35-4-66 be amended to read as follows:

14 35-4-66. Alcoholic beverages, except malt beverages, may be transported only:

- 15 (1) By transporter licensees in the course of delivery to persons authorized under this
16 title to receive such alcoholic beverages;
- 17 (2) By ~~a distiller or wholesale licensee in his~~ distillers or wholesale licensees in their
18 own vehicles, carrying ~~his~~ their own merchandise;
- 19 (3) By solicitor licensees, such transportation being confined to samples, sealed or
20 unsealed, of products for which orders are solicited;
- 21 (4) By individuals, interstate transportation being confined to alcoholic beverages in
22 quantities of one gallon or less, intrastate transportation not being restricted as to
23 quantity, but in either case ~~such~~ the alcoholic beverages must have been purchased
24 by ~~such~~ the individuals for personal use;

1 (5) By common carriers in interstate commerce where the shipment originates outside
2 the state and is destined for a point outside the state;

3 (6) By carrier licensees, as to that included in the stock in trade of ~~such~~ the licensees.

4 Section 180. That § 35-4-71 be amended to read as follows:

5 35-4-71. ~~Dispensers shall not~~ No dispenser may resell alcohol except as compounded into
6 medicinal or other preparations ~~which~~ that are not capable of ordinary use as a beverage.

7 Section 181. That § 35-4-74 be amended to read as follows:

8 35-4-74. No off-sale licensee ~~shall~~ may make any delivery of alcoholic beverages outside
9 of the premises described in ~~his~~ the license. A violation of this section is a Class 2
10 misdemeanor.

11 Section 182. That § 35-4-75 be amended to read as follows:

12 35-4-75. No on-sale licensee ~~shall~~ may serve alcoholic beverages except on the premises
13 authorized by ~~his~~ the license. A violation of this section is a Class 2 misdemeanor.

14 Section 183. That § 35-4-86 be amended to read as follows:

15 35-4-86. No person ~~shall have in his possession~~ may possess any alcoholic beverage other
16 than in a package upon which the required stamps are affixed. This section, however, ~~shall~~ does
17 not apply to alcoholic beverages:

- 18 (1) In transit to or in possession of distiller or wholesale licensees;
- 19 (2) In possession of a person authorized to have possession as specified in § 35-4-66;
- 20 (3) Purchased outside the state by carrier licensees for service to patrons only;
- 21 (4) Seized by or in possession of any officer of this state or any political subdivision
22 ~~thereof~~ of the state pursuant to official duty;
- 23 (5) In transit to or stored with a bonded warehouse under the provisions of § 35-4-46;
- 24 (6) As to which, under § 35-5-6, no tax is required to be paid.

1 A violation of this section is a Class 2 misdemeanor.

2 Section 184. That § 35-4-100 be amended to read as follows:

3 35-4-100. The Department of Human Services shall create a nine inch by twelve inch sign
4 to be displayed pursuant to § 35-4-99. ~~Such~~ The sign shall explain the dangers faced by pregnant
5 women who consume alcohol. The language in ~~such~~ the sign shall be approved by the secretary
6 of health. The Department of Human Services shall provide a copy of ~~such~~ the sign to each
7 licensee required by § 35-4-99 to display ~~such~~ the sign.

8 Section 185. That § 35-5-7 be amended to read as follows:

9 35-5-7. Any licensee liable for the payment of the occupational tax levied under this chapter
10 may be required by the secretary to file with the secretary a bond or bonds, in ~~such~~ an amount
11 and form ~~as the secretary shall prescribe~~ prescribed by the secretary, with corporate surety
12 satisfactory to the secretary. The amount of ~~such bond shall not be more than~~ the bond may not
13 exceed fifty thousand dollars, and the secretary may require the increase or permit the decrease
14 of the amount of the bond to ~~such sum as he~~ a sum that the secretary deems necessary to assure
15 payment of the tax. ~~Such~~ The bond or bonds shall run to the state and shall be conditioned on
16 the payment of all taxes levied by this chapter on or before the due date of payment, and on the
17 payment of all fines and penalties lawfully imposed by reason of failure to pay any such taxes
18 on the date payment is due. In lieu of ~~such~~ a bond the secretary may allow the licensee to furnish
19 the amount of ~~such~~ the bond in cash; or negotiable securities ~~as he may approve~~ approved by
20 the secretary.

21 Section 186. That § 35-5-7.1 be amended to read as follows:

22 35-5-7.1. The surety may cancel the bond required by ~~the preceding section~~ § 35-5-7 as to
23 future liability by giving thirty days' written notice to the department and the licensee. Unless
24 the licensee gives other sufficient security by the end of the thirty-day period, ~~his~~ the licensee's

1 license shall be revoked.

2 Section 187. That § 35-5-12 be amended to read as follows:

3 35-5-12. The secretary shall adopt the design of the identification stamp and shall procure
4 the manufacture of ~~such~~ the stamp in such quantities as ~~he shall deem~~ the secretary deems
5 necessary.

6 Section 188. That § 35-5-14 be amended to read as follows:

7 35-5-14. ~~Every~~ Any person who ~~shall make, manufacture, counterfeit, duplicate~~ makes,
8 manufactures, counterfeits, duplicates, or in any way ~~imitate~~ imitates any identification stamp;
9 provided for in this chapter; or who ~~shall have in his possession, transfer, utter, or deliver~~
10 possesses, transfers, utters, or delivers any imitation or ~~counterfeit~~ counterfeits any identification
11 stamp, ~~shall be~~ is guilty of forgery.

12 Section 189. That § 35-5-20 be amended to read as follows:

13 35-5-20. Any licensee liable for the payment of the occupational tax shall keep, in current
14 and available form on the licensed premises, records of all purchases, sales, quantities on hand,
15 and such other information as the secretary may prescribe by rule promulgated pursuant to
16 chapter 1-26. The secretary may require from any licensee any reports ~~he shall prescribe, and~~
17 he the secretary prescribes, and the secretary may require the production of any book, record,
18 document, invoice, and voucher kept, maintained, received, or issued by ~~any such~~ the licensee
19 in connection with ~~his~~ the licensee's business, ~~which that,~~ in the judgment of the secretary, may
20 be necessary to administer and discharge ~~his~~ the secretary's duties, to secure the maximum of
21 revenue to be paid, and to carry out the provisions of law. A violation of this section is a Class
22 1 misdemeanor.

23 If default is made, or if any such licensee fails or refuses to furnish any other reports or
24 information referred to upon request ~~therefor~~ for the reports or information, the secretary may

1 enter the licensee's premises of ~~such licensee~~ where the records are kept and make such
2 examination as is necessary to compile the required report. The cost of ~~such~~ the examination
3 shall be paid by the licensee whose reports are in default.

4 Section 190. That § 35-5-20.2 be amended to read as follows:

5 35-5-20.2. ~~In case any person fails~~ The failure by any person to make a report as required
6 by § 35-5-20.1, ~~it shall be~~ is sufficient cause for the secretary to revoke or suspend all licenses
7 to solicitor licensees employed by ~~such~~ the person, to terminate any permit issued to ~~such~~ the
8 person under § 35-4-46, and to notify all distiller, manufacturer, and wholesaler licensees to
9 make no further purchases from ~~such~~ the person until notified by the secretary that such
10 purchases may be resumed.

11 Section 191. That § 35-8A-3 be amended to read as follows:

12 35-8A-3. Any supplier and any wholesaler may contract with one another to establish the
13 terms and conditions of their distribution arrangement. If any supplier and any wholesaler have
14 entered into a mutually binding written agreement, the provisions of this chapter do not apply
15 and the relationship, rights, and obligations as between the parties shall be governed in all
16 respects by the provisions of the mutually binding written agreement, if the provisions are
17 reasonable, nondiscriminatory, and not unconscionable. However, no provision of a mutually
18 binding written agreement ~~which~~ that is determined to be unreasonable, discriminatory, and
19 unconscionable is of any effect, and ~~such~~ the provision is severable from any other provisions.
20 ~~And a~~ Any specific provision in the agreement ~~shall be~~ is invalid if the provision is more
21 restrictive of the wholesaler's right than this chapter allows or if the provision lessens any
22 obligation of the supplier as specified in this chapter; in that event the ~~terms~~ provisions of this
23 chapter apply. A supplier may have a different agreement with different wholesalers in different
24 brands.

1 In the event of a dispute as to whether the relationship, rights, and obligations as between
2 a supplier and a wholesaler are governed by a mutually binding written agreement or by this
3 chapter, any court of competent jurisdiction in this State may determine the issue by declaratory
4 judgment upon proper application to the court by either party to the dispute.

5 Section 192. That § 35-8A-6 be amended to read as follows:

6 35-8A-6. Upon providing the wholesaler notice by certified mail, a supplier may
7 immediately terminate an agreement, cancel an agreement, fail to renew an agreement upon
8 expiration of its term, or refuse to continue under an agreement ~~upon the occurrence of~~ if any
9 of the following has occurred:

- 10 (1) The state or federal license of the ~~beer~~ wholesaler has been revoked or suspended for
11 a period of more than thirty-one days;
- 12 (2) The wholesaler is insolvent, within the definition of that term contained in 11 U.S.C.
13 § ~~100~~ 101, as amended to January 1, 2008, and an order for relief under 11 U.S.C. ch.
14 7, as amended to January 1, 2008, has been entered with respect to the wholesaler,
15 or there has been a liquidation or dissolution of the wholesaler ~~which~~ that materially
16 ~~effects~~ affects the wholesaler's ability to remain in business;
- 17 (3) The wholesaler or any individual who holds ten percent or more of the stock or other
18 ownership interest of the wholesaler has been convicted of, or pleads guilty to, a
19 felony ~~which~~ that may in the reasonable judgment of the supplier materially and
20 adversely affect the ability of the wholesaler to sell the supplier's products in the
21 wholesaler's territory;
- 22 (4) The wholesaler has committed fraud in its dealings with the supplier or the supplier's
23 products;
- 24 (5) The wholesaler has sold ~~beer~~ malt beverages supplied by the supplier to a retailer

1 who the wholesaler knows, or reasonably should know, does not have a location
2 within the wholesaler's territory at which the retailer is entitled to resell malt
3 beverages; or the wholesaler has sold malt beverages supplied by the supplier to any
4 person the wholesaler knows or should know will sell or supply all or part of such the
5 malt beverages to any retail location which that does not have a location within the
6 wholesaler's territory at which the retailer is entitled to resell malt beverages;

7 (6) The wholesaler has failed to pay for products ordered and delivered in accordance
8 with established terms with the supplier and has continued to fail to make payment
9 within five business days after receipt of written notice of the delinquency and
10 demand for immediate payment;

11 (7) The wholesaler has made a transfer of wholesaler's business without prior written
12 notice to, and approval by, the supplier in accordance with this chapter;

13 (8) The wholesaler ceases to carry on business with respect to the brewer's products
14 unless the failure to carry on business is due to force majeure and the wholesaler has
15 not taken reasonable steps to overcome those events which that constitute the force
16 majeure or has been unable to carry on business for a period of more than five days;
17 or

18 (9) The brewer and wholesaler agree to a termination.

19 Section 193. That § 35-10-8 be amended to read as follows:

20 35-10-8. Any cost penalty provided for by this title shall be included in the judgment of
21 conviction, ~~shall have~~ and has all the force and effect of a judgment in a civil action, ~~and if. If~~
22 the person against whom such the cost penalty is assessed has furnished a bond as a licensee
23 under this title, the surety ~~shall be~~ is liable for such the cost penalty. ~~Such~~ The cost penalty may
24 be paid by the defendant to the clerk of the court which that rendered the judgment in which the

1 cost penalty was assessed, ~~which.~~ The payment shall operate as a satisfaction of the portion of
2 the judgment relating to the cost penalty; and shall be entered upon the judgment record
3 accordingly. If not paid to ~~such~~ the clerk, the judgment for ~~such~~ the cost penalty shall be
4 enforced by execution or other process, the same as any civil judgment. ~~Such~~ The clerk or any
5 officer collecting ~~such~~ the cost penalty shall ~~forthwith transmit the same,~~ without delay, transmit
6 the cost penalty to the state treasurer with a statement giving full information as to the source
7 thereof, ~~whereupon the~~ of the cost penalty. The state treasurer shall issue a receipt for the cost
8 penalty to the person transmitting ~~such~~ the cost penalty, ~~a receipt for the same.~~

9 Section 194. That § 35-10-9 be amended to read as follows:

10 35-10-9. ~~When~~ If any licensed dealer in alcoholic beverages, ~~his or the dealer's~~ agent; or
11 employee is convicted of:

12 (1) A violation of any provision of this title, or any law or ordinance regulating the sale
13 of ~~such~~ alcoholic beverages; or

14 (2) Any violation of law or ordinance in the operation of the licensed premises,
15 the court or magistrate shall, within ten days after the conviction, mail a written notice of
16 conviction to the auditor or finance officer of the municipality or the county auditor of the
17 county having jurisdiction to approve alcoholic beverage licenses for the premises. A copy of
18 the notice shall also be mailed to the Department of Revenue and Regulation.

19 Section 195. That § 35-10-10 be amended to read as follows:

20 35-10-10. ~~When~~ If any alcoholic beverage is imported into this state or held in the
21 possession of any person in this state without proper stamps ~~thereon~~ in violation of the
22 provisions of ~~the statutes of this state,~~ such state law, the alcoholic beverage is hereby declared
23 ~~to be~~ constitutes contraband goods and may be seized by the secretary, ~~his agents, employees,~~
24 or any law enforcement officer of the state. Any alcoholic beverage seized under the provisions

1 of this section shall be confiscated and forfeited to the state. The actual owner of ~~such the~~
2 contraband goods ~~shall have~~ has such rights as defined, and the secretary may dispose of, sell,
3 or destroy, ~~such the~~ contraband goods in accordance with the provisions of §§ 35-10-11 to 35-
4 10-16, inclusive. The proceeds of any such sale shall be placed in the general fund of the state.

5 Section 196. That § 35-10-11 be amended to read as follows:

6 35-10-11. Any alcoholic ~~beverages~~ beverage used or possessed in violation of provisions
7 of this title ~~are hereby declared~~ constitutes contraband goods, and is subject to confiscation as
8 provided ~~herein in this chapter~~. Any judgment of conviction of ~~such~~ such illegal use or possession
9 against the person from whom ~~such the~~ the beverages were taken ~~shall be deemed~~ constitutes a
10 confiscation of ~~such the~~ the beverages unless ~~such the~~ the beverages ~~are~~, within twenty days after ~~such~~
11 the judgment, are claimed by some other person; who establishes to the satisfaction of the court
12 that ~~he the person~~ the person is the true owner and had no participation in the illegal use or possession. ~~In~~
13 ~~the event~~ If prosecution on any such charge ~~or charges~~ terminates in a dismissal ~~thereof of the~~
14 charge, any such beverages, if previously seized, shall be returned to the owner.

15 Section 197. That § 35-10-12 be amended to read as follows:

16 35-10-12. ~~When~~ If there is no dismissal of prosecution or no judgment of conviction of
17 illegal use or possession of alcoholic beverages, any officer seizing ~~such the~~ the beverages may
18 ~~make application to the court which~~ apply to the court that issued the search warrant under
19 which ~~such the~~ the beverages were seized, or ~~in case such~~ if the beverages were not seized under
20 a search warrant, to any court of record for the county where ~~such the~~ the beverages were seized,
21 for an order determining whether ~~such the~~ the beverages were, in fact, possessed or used in violation
22 of the provisions of this title. ~~Such~~ The court shall thereupon make an order fixing a time and
23 place for hearing; and providing for reasonable notice ~~thereof of the hearing~~ of the hearing to the person from
24 whom ~~such the~~ the beverages were seized and to any probable claimant of ~~such beverages~~, and if

1 ~~such the beverages.~~ If the person or claimant is unknown, the notice may be by posting or
2 publication as the court directs.

3 Section 198. That § 35-10-13 be amended to read as follows:

4 35-10-13. Upon hearing, the court shall determine whether alcoholic beverages seized were
5 in fact used or possessed in violation of provisions of this title. If the court finds there was no
6 such illegal use or possession, ~~it the court~~ shall order ~~such the~~ beverages returned to or held for
7 the owner ~~thereof of the beverages~~. If the court determines that there was use or possession in
8 violation of provisions of this title, ~~it the court~~ shall adjudge the confiscation of ~~such the~~
9 beverages.

10 Section 199. That § 35-10-14 be amended to read as follows:

11 35-10-14. Upon any adjudication in any form of confiscation of alcoholic beverages, the
12 officer having custody of ~~such the~~ beverages shall make a full report to the secretary of revenue;
13 setting forth the quantity, kind, and probable value of ~~such the~~ beverages. If ~~such the~~ beverages
14 are of such character that ~~they the beverages~~ cannot lawfully be sold, or are of insufficient value
15 to justify an attempted sale, the secretary shall order the ~~same beverages~~ destroyed, ~~whereupon~~
16 ~~such.~~ The officer in custody ~~thereof of the beverages~~ shall comply with ~~such the~~ order; and ~~make~~
17 ~~due return thereof to the secretary~~ shall report to the secretary that the order has been carried out.

18 Section 200. That § 35-10-15 be amended to read as follows:

19 35-10-15. If confiscated alcoholic beverages are lawfully salable, and of sufficient value to
20 justify an attempted sale, the secretary of revenue shall take custody ~~thereof of the beverages~~,
21 and may, pending sale, store the ~~same beverages~~ at any convenient and safe place. All stamps
22 provided by this title, except inspection stamps, shall be canceled and removed.

23 Section 201. That § 35-10-16 be amended to read as follows:

24 35-10-16. From time to time as confiscated alcoholic beverages accumulate in sufficient

1 quantities ~~to make it feasible~~, the secretary of revenue shall notify all licensed wholesalers as
2 to kinds and types of such beverages in ~~his~~ the secretary's custody for sale, ~~and~~. The secretary
3 shall receive bids, and sales ~~to~~ shall be made on the basis of such bids as the secretary deems
4 advantageous to the state. Any wholesaler purchasing ~~such~~ the beverages ~~must~~ shall, before
5 resale ~~thereof~~ of the beverages, affix to the package or bulk container all stamps, other than the
6 inspection stamp, required by this title. All proceeds of any such sale by the secretary shall be
7 ~~turned over to~~ deposited with the state treasurer and credited to the general fund.

8 Section 202. That § 35-10-18 be amended to read as follows:

9 35-10-18. If a person has knowledge or reason to believe that ~~his~~ the person's structure,
10 conveyance, or place is occupied or used for the manufacture, sale, ~~or for the~~ bartering, giving
11 away, keeping, consuming, or using of alcoholic beverages, contrary to the provisions of the
12 laws of the state, and ~~suffers the same~~ if the person allows the structure, conveyance, or place
13 to be so occupied or used, ~~such~~ the structure, conveyance, or place ~~shall be~~ is subject to a lien
14 for and may be sold to pay all fines and costs assessed against the person guilty of such nuisance
15 for such violation, ~~and any~~. Any such lien may be enforced by action in any court having
16 jurisdiction.

17 Section 203. That § 35-10-19 be amended to read as follows:

18 35-10-19. ~~Any~~ An action to enjoin any nuisance, as defined in § 35-10-17, may be brought
19 in the name of the State of South Dakota by the attorney general ~~of the State of South Dakota,~~
20 ~~or any of his assistants,~~ or by the state's attorney of the county in which the property constituting
21 ~~such~~ the nuisance is located, ~~or by any of his deputies~~. Any action to abate or to enjoin ~~such~~ the
22 nuisance may be commenced and conducted as other actions or proceedings for injunction;
23 ~~except that~~. However, the complaint or affidavit used may be made on information and belief
24 and no bond ~~shall be~~ is required in instituting ~~such~~ the proceedings or to secure the issuance of

1 any such injunction.

2 Section 204. That § 35-10-20 be amended to read as follows:

3 35-10-20. An action pursuant to § 35-10-19 may be maintained in any court having
4 jurisdiction thereof and may be maintained and an over such an action. An injunction may be
5 secured against the premises in which ~~such~~ the nuisance exists; and against any person,
6 partnership, club, association, or corporation, either severally or jointly, who ~~either,~~ as owner,
7 tenant, agent, keeper, servant, employee, or manager of any place or premises where ~~such~~ the
8 nuisance is created, kept, or maintained, ~~or aids in maintaining, or who permits, allows, or~~
9 ~~suffers such~~ allows the nuisance to exist or continue in any place or on any premises owned,
10 managed, controlled, or occupied by ~~him or them~~ the person, partnership, club, association, or
11 corporation.

12 Section 205. That § 35-10-22 be amended to read as follows:

13 35-10-22. It ~~shall not be~~ is not necessary in an action pursuant to § 35-10-19 for the court
14 to find the property involved was being unlawfully used as described in § 35-10-17 at the time
15 of the hearing, ~~but.~~ However, on finding that the material allegations of the petition are true, the
16 court shall order that no alcoholic beverages ~~shall~~ may be manufactured, sold, bartered, or stored
17 in ~~such~~ the structure, conveyance, or place. ~~And upon~~ Upon judgment of the court ordering ~~such~~
18 the nuisance to be abated, the court may order that the structure, conveyance, or place ~~shall~~ not
19 be occupied or used for one year thereafter.

20 Section 206. That § 35-10-23 be amended to read as follows:

21 35-10-23. Notwithstanding § 35-10-22, the court may, ~~in its discretion,~~ permit the structure,
22 conveyance, or place to be occupied or used if the owner, lessee, tenant, or occupant ~~thereof~~
23 ~~shall give~~ of the structure, conveyance, or place gives bond with sufficient surety, to be
24 approved by the court making the order, in the penal and liquidated sum of not less than five

1 hundred dollars nor more than one thousand dollars; ~~The bond shall be payable to the state; and~~
2 conditioned that alcoholic beverages ~~will~~ may not thereafter be manufactured, sold, bartered,
3 kept, or otherwise disposed of ~~therein or thereon~~ in or on the structure, conveyance, or place,
4 and that ~~he~~ the owner, lessee, tenant, or occupant will pay all fines, costs, and damages that may
5 be assessed for any violation of law relating to alcoholic beverages upon ~~said~~ the property.

6 Section 207. That § 35-10-26 be amended to read as follows:

7 35-10-26. The accused in any proceeding pursuant to § 35-10-25 may plead in the same
8 manner as to an information or indictment, insofar as the same is applicable. Evidence may be
9 oral or in the form of affidavits, or both; ~~the defendant may be required to make answer to. The~~
10 court may require the defendant to answer interrogatories, either written or oral; ~~in the discretion~~
11 ~~of the court or judge; the.~~ The defendant ~~shall~~ need not necessarily be discharged upon ~~his~~ the
12 defendant's denial of the facts stated in the moving papers.

13 Section 208. That § 35-11-2 be amended to read as follows:

14 35-11-2. No social host who furnishes any alcoholic beverage is civilly liable to any injured
15 person or ~~his~~ injured person's estate for any injury suffered, including any action for wrongful
16 death, or property damage suffered because of the intoxication of any person due to the
17 consumption of ~~such~~ the alcoholic beverage.