

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

400C0320

SENATE ENGROSSED NO. **HB1058** - 2/9/99

Introduced by: The Committee on Commerce at the request of the Department of Commerce
and Regulation

1 FOR AN ACT ENTITLED, An Act to revise the Board of Accountancy's authority regarding
2 certificate holders not in public practice and to revise certain educational, continuing
3 education, and examination requirements for licensees and certificate holders.

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

5 Section 1. That § 36-20A-1 be amended to read as follows:

6 36-20A-1. Terms, as used in this chapter, mean:

- 7 (1) "Board," the South Dakota Board of Accountancy established pursuant to
8 § 36-20A-3 or its predecessor;
- 9 (2) "Certificate," a certificate as a certified public accountant issued pursuant to
10 § 36-20A-8 or corresponding provisions of prior law, or a corresponding certificate
11 as certified public accountant issued after examination under the law of any other
12 state;
- 13 (3) "Firm," a sole proprietorship, a corporation, limited liability company, or a
14 partnership;
- 15 (4) "Licensee," the holder of a certificate issued pursuant to § 36-20A-8 or of a license
16 issued under prior law, or of a permit issued pursuant to § 36-20A-10, 36-20A-11,

1 or 36-20A-14; or, in each case, a certificate, license, or permit issued under
2 corresponding provisions of prior law;

3 (5) "Permit," a permit to practice public accountancy issued to a person pursuant to
4 § 36-20A-10 or 36-20A-11 or the corresponding provisions of prior law or to a firm
5 pursuant to § 36-20A-14;

6 (6) "~~Quality~~ Peer review," a study, appraisal, or review by a licensee of this state or a
7 person holding a certificate of any state, of one or more aspects of the professional
8 work of a person or firm in the practice of public accountancy;

9 (7) "State," any state of the United States, the District of Columbia, Puerto Rico, the
10 United States Virgin Islands, and Guam. However, the term, this state, means the
11 State of South Dakota;

12 (8) "Foreign," referring to a jurisdiction outside of the United States;

13 (9) "Domestic," referring to a jurisdiction of a state as the term, state, is defined by this
14 section; and

15 (10) "License," a license as a public accountant issued pursuant to § 36-20A-17.

16 Section 2. That § 36-20A-4 be amended to read as follows:

17 36-20A-4. The board shall elect annually from among its members a chair, and such other
18 officers as the board considers appropriate. The board shall meet at such times and places within
19 this state as may be fixed by the board. Any meeting of the board is open to the public except
20 insofar as they are concerned with investigations under § 36-20A-21 and except as may be
21 necessary to protect information which is required to be kept confidential by the laws of this
22 state. A majority of the board members ~~then in office~~ constitutes a quorum. The board shall
23 maintain a registry of the names and addresses of all active licensees under this chapter who hold
24 current permits to practice public accountancy. The board may maintain a registry of the names
25 and addresses of all other active licensees. The board shall be within the Department of

1 Commerce and Regulation and shall submit such reports of its activities in the form and at such
2 times as required by the secretary of commerce and regulation.

3 Section 3. That § 36-20A-7 be amended to read as follows:

4 36-20A-7. The board may promulgate rules pursuant to chapter 1-26 governing its
5 administration and enforcement of this chapter and the conduct of licensees, including:

- 6 (1) Rules governing the board's meeting and the conduct of its business;
- 7 (2) Rules of procedure governing the conduct of investigations and hearings by the board;
- 8 (3) Rules specifying the fees and educational qualifications required for the issuance of
9 certificates pursuant to §§ 36-20A-8 and 36-20A-10, the experience required for
10 issuance of permits pursuant to §§ 36-20A-10 and 36-20A-11, the date for renewal
11 of permits pursuant to §§ 36-20A-10 and 36-20A-14, and the continuing professional
12 education required for renewal of permits pursuant to § 36-20A-12;
- 13 (4) Rules of professional conduct to control the quality and integrity of the practice of
14 public accountancy by permit holders;
- 15 (5) Rules governing the manner and circumstances of use by holders of certificates who
16 do not also hold permits under this chapter of the titles, certified public accountant
17 and CPA;
- 18 (6) Rules specifying procedures and fees for registration of certificate holders who do not
19 also hold permits under this chapter of the titles, certified public accountant and CPA;
- 20 (7) Rules governing the manner and circumstances of use by holders of licenses issued
21 under prior law who do not also hold permits under this chapter of the titles, public
22 accountant and PA;
- 23 (8) Rules specifying procedures and fees for registration of license holders who do not
24 also hold permits under this chapter of the titles, public accountant and PA;
- 25 (9) Rules regarding quality peer review pursuant to § 36-20A-15;

- 1 (10) Rules specifying a ~~quality peer~~ review administrative fees;
- 2 (11) Rules specifying procedures and fees for ~~quality peer~~ review seminars and manuals;
- 3 (12) Rules specifying fees for examination and reexamination and issuance of a certificate
- 4 pursuant to § 36-20A-8;
- 5 (13) Rules specifying procedures and fees for proctoring applicants ~~of~~ from another
- 6 jurisdiction;
- 7 (14) Rules specifying the procedures and fees for initial issuance or renewal of an
- 8 individual or firm permit pursuant to § 36-20A-18; ~~and~~
- 9 (15) Rules governing the application and fees for a modification of a suspension or reissue
- 10 of a certificate, license, or permit pursuant to § 36-20A-25;
- 11 (16) Rules governing the methods, eligibility, and requirements for applying for
- 12 examination and reexamination pursuant to § 36-20A-8;
- 13 (17) Rules specifying procedures and fees for renewal of certificates and individual and
- 14 firm permits not filed in a timely manner;
- 15 (18) Rules specifying procedures and fees for replacement of a certificate or permits issued
- 16 pursuant to § 36-20A-8, 36-20A-10, 36-20A-11, or 36-20A-14;
- 17 (19) Rules specifying methods and requirements for conducting the examination prescribed
- 18 in § 36-20A-8;
- 19 (20) Rules specifying methods, eligibility, and requirements of applying for a certificate in
- 20 accordance with § 36-20A-8;
- 21 (21) Rules specifying procedures and fees for issuance of certificates and individual and
- 22 firm permits not filed within the required period of time; and
- 23 (22) Rules defining active and inactive status of both certificate and PA license holders
- 24 who do not have a valid individual permit to practice.

25 Section 4. That § 36-20A-8 be amended to read as follows:

1 36-20A-8. The board shall grant ~~the a~~ certificate of ~~certified public accountant~~ to any
2 applicant who meets the requirements of good character, education, and examination, and who
3 pays the fees prescribed in this chapter.

4 Good character for purposes of this section ~~means~~ is indicated by lack of a history of
5 dishonest or felonious acts. The board may refuse to grant a certificate on the ground of failure
6 to satisfy this requirement only if there is a substantial connection between the lack of good
7 character of the applicant and the professional responsibilities of a licensee. If an applicant is
8 found to be unqualified for a certificate because of a lack of good character, the board shall
9 furnish the applicant a statement containing the reasons for the refusal.

10 The education requirement for a certificate, which shall be met before one hundred days after
11 an applicant sits for the examination prescribed in this chapter, is at least one hundred fifty
12 semester hours of college education, including graduation from an accredited college or
13 university with a baccalaureate or a graduate major in accounting, or the satisfactory completion
14 of a course of study which the board has determined to be substantially the equivalent of an
15 accounting major, including related courses in other areas of business administration. Such
16 courses of study may be in a college or university recognized by the board.

17 The examination required to be passed as a condition for the granting of a certificate ~~shall~~
18 ~~be in writing~~, shall be held at least annually; and shall test the applicant's knowledge of the
19 subjects of accounting, auditing, and such other related subjects as the board may specify by rule
20 promulgated pursuant to chapter 1-26. The time and place for holding such examination shall be
21 fixed by the board and may be changed from time to time. The board shall prescribe by rule
22 promulgated pursuant to chapter 1-26 the requirements and methods of applying for and
23 conducting the examination, including methods for grading papers and determining a passing
24 grade entitling an applicant to a certificate.

25 An applicant shall be required to pass all parts of the examination provided for in this section

1 in order to qualify for a certificate. If at any sitting of the examination an applicant passes the
2 number of parts specified by the board by rule promulgated pursuant to chapter 1-26, then the
3 applicant shall be given credit for those parts ~~that he has~~ passed and need not sit for
4 reexamination in those parts, if:

- 5 (1) The applicant wrote all parts of the examination at that sitting;
- 6 (2) The applicant attained a minimum grade specified by the board by rule promulgated
7 pursuant to chapter 1-26 on each part not passed at that sitting;
- 8 (3) The applicant passes the remaining parts of the examination within seven consecutive
9 examinations given after the one at which the first parts were passed;
- 10 (4) At each subsequent sitting at which the applicant seeks to pass any additional parts,
11 the applicant writes all parts not yet passed; and
- 12 (5) In order to receive credit for passing additional parts in any such subsequent sitting,
13 the applicant attains such grades on parts written but not passed on such sitting as
14 specified by the board by rule promulgated pursuant to chapter 1-26.

15 An applicant shall be given credit for any parts of an examination passed in another state if
16 such credit would have been given, under then applicable requirements, if the applicant had taken
17 the examination in this state. The board may in particular cases waive or defer any of the
18 foregoing requirements regarding the circumstances in which the various parts of the
19 examination shall be passed, upon a showing that, by reason of circumstances beyond the
20 applicant's control, ~~he~~ the applicant was unable to meet such requirement.

21 The board may charge each applicant a fee, in an amount prescribed by the board by rule
22 promulgated pursuant to chapter 1-26, for each part of the examination or reexamination taken
23 by the applicant.

24 Section 5. That chapter 36-20A be amended by adding thereto a NEW SECTION to read
25 as follows:

1 An examination candidate, who was accepted under the educational requirement in effect
2 through December 31, 1997, and who sat on or before the November 1997 examination, may
3 continue to sit for the examination in accordance with requirements established by the board by
4 rule promulgated pursuant to chapter 1-26.

5 Section 6. That chapter 36-20A be amended by adding thereto a NEW SECTION to read
6 as follows:

7 A person, who passed the examination as a South Dakota candidate on or before the
8 November 1997 examination and who did not apply for a certificate by December 31, 1997, may
9 apply for a certificate in accordance with requirements and by such date established by the board
10 by rule promulgated pursuant to chapter 1-26.

11 Section 7. That § 36-20A-11 be amended to read as follows:

12 36-20A-11. Any individual practicing public accountancy in this state is required to have an
13 individual permit to practice.The board shall issue an individual permit to a holder of a certificate
14 issued by another state upon a showing that:

15 (1) The applicant passed an examination required for issuance of ~~his~~ the certificate
16 equivalent to the examination required by this state with grades that would have been
17 passing grades at the time in this state;

18 (2) The applicant meets all current requirements in this state for issuance of a certificate
19 at the time application is made; or at the time of the issuance of the applicant's
20 certificate in the other state, met all requirements then applicable in this state for
21 issuance of a certificate; or has four years of experience in the practice of public
22 accountancy or equivalent, meeting requirements prescribed by the board by rule
23 promulgated pursuant to chapter 1-26 after passing the examination upon which ~~his~~
24 the certificate was based and within the ten years immediately preceding ~~his~~ the
25 application; and

1 (3) The applicant meets the requirements of § 36-20A-10 other than holding a valid
2 certificate issued by this state.

3 Section 8. That § 36-20A-13 be amended to read as follows:

4 36-20A-13. Any applicant for initial issuance or renewal of individual permits shall in ~~his~~ the
5 application list all states in which ~~he~~ the applicant has applied for or holds any certificate or
6 permit; ~~and each~~ Each holder of an individual permit shall notify the ~~Board of Accountancy~~
7 board in writing, within thirty days after its occurrence, of any denial of an application, or
8 revocation or suspension of a certificate or permit, in another state.

9 Each holder of an individual permit shall notify the board in writing, within thirty days after
10 its occurrence, of any change in employment or address.

11 Section 9. That § 36-20A-14 be amended to read as follows:

12 36-20A-14. Any firm practicing public accountancy in this state ~~shall~~ is required have a firm
13 permit to practice. The board shall grant or renew a permit to practice public accountancy to any
14 firm that applies and demonstrates its qualifications. The board shall issue permits and renew
15 them for periods of one year but in any event expiring on the date as determined by the board
16 by rule promulgated pursuant to chapter 1-26 following issuance or renewal. The failure to
17 renew on the part of any registrant under this chapter does not deprive such firm of the right of
18 renewal thereafter if it is otherwise qualified. The fee for the renewal of the permit after it has
19 expired shall be increased by a uniform percent or amount to be established by the board by rule
20 promulgated pursuant to chapter 1-26. Applications for permits shall be made in such form, and
21 in the case of applications for renewal between such dates as the board may, by rule,
22 promulgated pursuant to chapter 1-26, specify. An applicant for initial issuance or renewal of a
23 permit to practice pursuant to this section shall show that the proprietor or each partner,
24 member, officer, or shareholder who works in this state, and each employee holding a certificate
25 who works in this state except for employees who have not yet accumulated sufficient experience

1 to qualify for an individual permit pursuant to § 36-20A-10, holds a valid individual permit to
2 practice, and that each other partner, member, officer, or shareholder holds a certificate and is
3 licensed to practice public accountancy in some other state. An applicant for initial issuance or
4 renewal of a permit to practice pursuant to this section shall register with the board each office
5 of the firm within this state and each office of the firm located out of state that is practicing in
6 this state, and show that each office is under the charge of a person holding a valid permit to
7 practice.

8 Section 10. That § 36-20A-15 be amended to read as follows:

9 36-20A-15. The board may, by rule promulgated pursuant to chapter 1-26, require, on either
10 a uniform or a random basis, as a condition to renewal of firm permits pursuant to § 36-20A-14,
11 that applicants undergo ~~quality peer~~ reviews conducted in such manner and producing such
12 satisfactory result as the board may specify. However, any such requirement shall include
13 reasonable provision for compliance by means of an applicant furnishing evidence of a
14 satisfactory ~~quality peer~~ review performed for other purposes.

15 The board may charge any firm subject to ~~quality peer~~ review administrative fees to be
16 established by rule promulgated pursuant to chapter 1-26. The fees may be established in
17 accordance to the provisions under which the firm applies for ~~quality peer~~ review.

18 Pursuant to the ~~quality peer~~ review process, the board shall treat the reports of the reviewer
19 and all records submitted to the reviewer by the firm subject to review as confidential
20 information. The board may not disclose such information to any persons other than staff
21 members, legal counsel, and other persons retained by the board to assist it in fulfilling its
22 responsibilities under this chapter and the rules promulgated by the board pursuant to chapter
23 1-26.

24 Section 11. That § 36-20A-16 be amended to read as follows:

25 36-20A-16. Any applicant for initial issuance or renewal of firm permits shall, in ~~his~~ the

1 application, list all states in which ~~he~~ the applicant has applied for or holds any permit to practice
2 public accountancy; and each holder of or applicant for a firm permit shall notify the ~~Board of~~
3 ~~Accountancy~~ board in writing within thirty days after its occurrence of any change in the
4 identities of partners, members, officers, or shareholders who work within this state, any change
5 in the number or location of offices within this state, any change in the identity of the persons in
6 charge of such offices, and any issuance, denial, revocation, or suspension of a permit by any
7 other state.

8 Section 12. That § 36-20A-17 be amended to read as follows:

9 36-20A-17. Any person who on June 30, 1984, held any license as a public accountant or
10 permit to practice public accountancy issued under prior law of this state shall have ~~his~~ the permit
11 to practice renewed pursuant to § 36-20A-10, if ~~he~~ the person fulfills all requirements for
12 renewal other than holding a ~~certificate~~ license. If ~~such licensees~~ a licensee and the ~~firms~~ firm,
13 in which ~~they are proprietors, partners, officers, or shareholders~~ the licensee is a proprietor,
14 partner, officer, or shareholder, hold valid permits to practice pursuant to §§ 36-20A-10 and
15 36-20A-14, respectively, they may engage in the practice of public accountancy to the same
16 extent as other holders of such permits. They may also use the designations, public accountants
17 and PA, but no other designation, in connection with the practice of public accountancy.

18 Section 13. That § 36-20A-20 be amended to read as follows:

19 36-20A-20. The board may, in accordance with chapter 1-26, revoke any certificate, license,
20 or permit issued pursuant to § 36-20A-8, 36-20A-10, 36-20A-11, or 36-20A-14, or
21 corresponding provisions of prior law, suspend any such certificate, license, or permit or refuse
22 to renew any such certificate, license, or permit for a period of not more than five years,
23 reprimand, censure, or limit the scope of practice of any licensee, or place any licensee on
24 probation, all with or without terms, conditions, and limitations for any of the following reasons:

- 25 (1) Fraud or deceit in obtaining a certificate or permit;

- 1 (2) Cancellation, revocation, suspension, or refusal to renew authority to engage in the
2 practice of public accountancy in any other state for any cause;
- 3 (3) Failure, on the part of a holder of a permit pursuant to § 36-20A-10, 36-20A-11, or
4 36-20A-14 or on the part of a holder of a certificate pursuant to § 36A-20A-8 or of
5 a certificate issued by another state, to maintain compliance with the requirements for
6 issuance or renewal of such permit or to report changes to the board pursuant to
7 § 36-20A-13 or 36-20A-16, or section 22 of this Act;
- 8 (4) Revocation or suspension of the right to practice before any state or federal agency;
- 9 (5) Dishonesty or gross negligence in the practice of public accountancy or in the filing
10 or failure to file personal income tax returns;
- 11 (6) Violation of any of the provisions of this chapter or rules promulgated pursuant to
12 chapter 1-26 by the board under this chapter;
- 13 (7) Conviction of a felony or of any crime, an element of which is dishonesty or fraud,
14 under the laws of any state or the United States;
- 15 (8) Performance of any fraudulent act while holding a certificate, license, or permit;
- 16 (9) Any conduct reflecting adversely upon the licensee's fitness to engage in the practice
17 of public accountancy; and
- 18 (10) Dishonesty or gross negligence in the performance of quality peer reviews.

19 In lieu of or in addition to any remedy specifically provided in this section, the board may
20 require of a licensee a quality peer review conducted in such manner as the board may specify
21 or satisfactory completion of such continuing professional education programs as the board may
22 specify, or both.

23 In any proceeding in which a remedy provided by this section is imposed, the board may also
24 require the respondent licensee to pay some or all of the costs of the proceeding.

25 Section 14. That § 36-20A-24 be amended to read as follows:

1 36-20A-24. If the board renders a decision imposing discipline against a licensee under this
2 chapter, the board shall examine its records to determine whether the licensee holds a certificate,
3 license, or a permit to practice public accountancy in any other state. If so, the board shall notify
4 the board of accountancy of such other state of its decision, by mail, within thirty days of
5 rendering the decision. The board may also furnish information relating to proceedings resulting
6 in disciplinary action with other public authorities and with private professional organizations
7 having a disciplinary interest in the licensee.

8 Section 15. That § 36-20A-25 be amended to read as follows:

9 36-20A-25. If the board has suspended or revoked a certificate, license, or a permit, or
10 refused to renew a certificate, license, or permit, the board may, upon application in writing by
11 the person or firm affected and for good cause shown, modify the suspension or reissue the
12 certificate, license, or permit. The board shall, by rule promulgated pursuant to chapter 1-26,
13 specify the manner in which such applications shall be made, the times within which they shall
14 be made and the circumstances in which hearings shall be held thereon. Before reissuing, or
15 terminating the suspension of, a certificate, license, or permit under this section, and as a
16 condition thereto, the board may require the applicant therefor to show successful completion
17 of specified continuing professional education. The board may make the reinstatement of a
18 certificate, license, or permit conditional, and subject to satisfactory completion of a quality peer
19 review conducted in such manner as the board may specify.

20 Section 16. That § 36-20A-26 be amended to read as follows:

21 36-20A-26. No person or firm not holding a valid permit issued pursuant to § 36-20A-10,
22 36-20A-11, or 36-20A-14 may issue a report on financial statements of any other person, firm,
23 organization, or governmental unit. ~~Report~~ The term, report, if used with reference to financial
24 statements, means an opinion, report, or other form of language which states or implies
25 assurance as to the reliability of any financial statements and which also includes or is

1 accompanied by any statement or implication that the person or firm issuing it has special
2 knowledge or competence in accounting or auditing. Such a statement or implication of special
3 knowledge or competency may arise from use by the issuer of the report of names or titles
4 indicating that the issuer is an accountant or auditor, or from the language of the report itself.
5 The term, report, includes any form of language which disclaims an opinion when such form of
6 language is conventionally understood to imply any positive assurance as to the reliability of the
7 financial statements referred to or special competence on the part of the person or firm issuing
8 such language; and it includes any other form of language that is conventionally understood to
9 imply such assurance or such special knowledge or competence. This prohibition does not apply
10 to an officer, partner, member, or employee of any firm or organization affixing ~~his~~ the person's
11 signature to any statement or report in reference to the financial affairs of such firm or
12 organization with any wording designating the position, title, or office that ~~he~~ the person holds
13 therein; nor prohibit any act of a public official or employee in the performance of ~~his~~ the
14 person's duties as such; nor prohibit the performance by persons other than licensees of other
15 services involving the use of accounting skills, including the preparation of tax returns and the
16 preparation of financial statements without the issuance of reports thereon.

17 The prohibition contained in this section is applicable to issuance, by a person or firm not
18 holding a valid permit, of a report using any form of language conventionally used by licensees
19 respecting a review or compilation of financial information.

20 Any person who violates the provisions of this section is guilty of a Class 2 misdemeanor.

21 Section 17. That § 36-20A-27 be amended to read as follows:

22 36-20A-27. ~~No person not a current~~ Any person who is a licensee may use or assume the
23 title or designation, certified public accountant, or the abbreviation CPA, or any other title,
24 designation, words, letters, abbreviation, sign, card, or device ~~tending to indicate~~ indicating that
25 such person is a certified public accountant. However, a holder of a certificate who does not also

1 hold a permit, may use the titles pertaining to such certificate in any manner not prohibited by
2 rule promulgated by the board pursuant to chapter 1-26. Use of the designation by a licensee in
3 inactive status is restricted as prescribed by rules promulgated by the board pursuant to chapter
4 1-26.

5 No firm may assume or use the title or designation, certified public accountant, or the
6 abbreviation CPA, or any other title, designation, words, letters, abbreviation, sign, card, or
7 device ~~tending to indicate~~ indicating that such firm is composed of certified public accountants
8 unless:

- 9 (1) The firm holds a valid permit pursuant to § 36-20A-14; and
- 10 (2) All partners, officers, members, and shareholders of the firm hold certificates.

11 No person may assume or use the title or designation, public accountant, or the abbreviation
12 PA, or any other title, designation, words, letters, abbreviation, sign, card, or device ~~tending to~~
13 ~~indicate~~ indicating that such person is a public accountant unless ~~he~~ the person holds a public
14 accountant's license issued under prior law. However, a holder of a license issued under prior law
15 who does not also hold a permit, may use the titles pertaining to such license in any manner not
16 prohibited by rule promulgated pursuant to chapter 1-26 by the board.

17 No firm not holding a valid permit issued pursuant to § 36-20A-14 may assume or use the
18 title or designation, public accountant, or the abbreviation PA, or any other title, designation,
19 words, letters, abbreviation, sign, card, or device ~~tending to indicate~~ indicating that such firm is
20 composed of public accountants. ~~No~~ Any person or firm that does not holding hold a valid
21 permit issued pursuant to § 36-20A-10, 36-20A-11, or 36-20A-14 may not assume or use the
22 title or designation, certified accountant, chartered accountant, enrolled accountant, licensed
23 accountant, registered accountant, accredited accountant, or any other title or designation likely
24 to be confused with the titles, certified public accountant or public accountant. ~~However, a~~
25 ~~holder of a certificate issued pursuant to § 36-20A-8, or of a license issued under prior law who~~

1 ~~does not also hold a permit, may use the titles pertaining to such certificate or license in any~~
2 ~~manner not prohibited by rules promulgated by the Board of Accountancy:~~

3 ~~— No person or firm not holding a valid permit issued pursuant to § 36-20A-10, 36-20A-11,~~
4 ~~or 36-20A-14 may assume or use any title or designation that includes the words, accountant,~~
5 ~~auditor, or accounting, in connection with any other language including the language of a report~~
6 ~~which implies that such person or firm holds such a permit or has special competence as an~~
7 ~~accountant or auditor. However, this does not prohibit any officer, member, partner, or employee~~
8 ~~of any firm or organization from affixing his signature to any statement or report in reference to~~
9 ~~the financial affairs of such firm or organization with any wording designating the position, title,~~
10 ~~or office that he holds therein, nor prohibit any act of a public official or employee in the~~
11 ~~performance of his duties as such:~~

12 Any person or firm who violates the provisions of this section is guilty of a Class 2
13 misdemeanor.

14 Section 18. That chapter 36-20A be amended by adding thereto a NEW SECTION to read
15 as follows:

16 Any person or firm that does not hold a valid permit issued pursuant to § 36-20A-10, 36-
17 20A-11, or 36-20A-14 may not assume or use any title or designation that includes the words,
18 accountant, auditor, or accounting, in connection with any other language including the language
19 of a report which implies that such person or firm holds such a permit or has special competence
20 as an accountant or auditor. However, this does not prohibit any officer, member, partner, or
21 employee of any firm or organization from affixing the person's signature to any statement or
22 report in reference to the financial affairs of such firm or organization with any wording
23 designating the position, title, or office that the person holds therein, nor prohibit any act of a
24 public official or employee in the performance of the person's duties as such.

25 Any person or firm who violates the provisions of this section is guilty of a Class 2

1 misdemeanor.

2 Section 19. That § 36-20A-28 be amended to read as follows:

3 36-20A-28. No person holding a certificate or a license issued under prior law may engage
4 in the practice of public accountancy unless ~~he~~ the person also holds a valid permit issued
5 pursuant to § 36-20A-10 or 36-20A-11, or ~~he~~ the person is an employee and not a partner,
6 officer, member, or shareholder of a firm holding such a permit issued pursuant to § 36-20A-14
7 and has not been such an employee long enough to meet the experience requirement prescribed
8 by § 36-20A-10 for an individual permit to practice.

9 No firm may engage in the practice of public accountancy unless it holds a valid permit issued
10 pursuant to § 36-20A-14.

11 Any person or firm who violates the provisions of this section is guilty of a Class 2
12 misdemeanor.

13 Section 20. That § 36-20A-32 be amended to read as follows:

14 36-20A-32. If the ~~Board of Accountancy~~ board has suspended a certificate, license, or a
15 permit or has refused to renew a certificate, license, or permit for a specified period of time and
16 the specified period of time has elapsed, the board may, upon application in writing by the person
17 or firm affected and for good cause shown, reinstate or reissue the certificate, license, or permit.
18 The board shall by rule promulgated pursuant to chapter 1-26 specify the manner in which the
19 application shall be made, the time period within which the application shall be made, and the
20 circumstances in which a hearing shall be held on the application. Before reissuing or reinstating
21 the certificate, license, or permit under this section, and as a condition thereto, the board may
22 require the applicant to show successful completion of specified continuing professional
23 education. The board may make the reinstatement of a certificate, license, or permit conditional,
24 and subject to satisfactory completion of a quality peer review conducted in such manner as the
25 board may specify.

1 Section 21. That § 36-20A-33 be amended to read as follows:

2 36-20A-33. The board may, by rule promulgated pursuant to chapter 1-26, establish
3 requirements whereby personnel of any firm subject to quality peer review and any reviewer
4 performing a quality peer review shall attend a quality peer review seminar.

5 The board may by rule promulgated pursuant to chapter 1-26 establish requirements whereby
6 personnel of any firm subject to quality peer review and any reviewer performing quality peer
7 review shall purchase a quality peer review manual.

8 Section 22. That chapter 36-20A be amended by adding thereto a NEW SECTION to read
9 as follows:

10 The board may renew certificates and licenses of individuals not holding individual permits
11 to practice, who reside or are employed in this state and who wish to actively use their
12 designation. Any certificate issued pursuant to § 36-20A-8 or by another state or any license
13 issued under prior law may be renewed for periods of one year but in any event expiring on the
14 renewal date as established by the board by rule promulgated pursuant to chapter 1-26. The
15 board shall, by rule promulgated pursuant to chapter 1-26, establish the renewal date for such
16 a certificate. The board may, by rule promulgated pursuant to chapter 1-26, increase the fee for
17 the renewal of a certificate or license after it has expired. Applications for renewal of a certificate
18 or license shall be made in such form as the board shall specify by rule promulgated pursuant to
19 chapter 1-26.

20 The board may establish a continuing professional education requirement for renewal of a
21 certificate or license. However, no such requirement may be established prior to July 1, 2002.
22 The board may provide, by rule promulgated pursuant to chapter 1-26, the kinds and subjects
23 of education, the number of hours of education required annually, and procedures for prorating
24 continuing professional education requirements for applicants whose certificate was issued less
25 than three years before the renewal date.

1 A certificate or license holder may be considered exempt from the continuing professional
2 education requirement by requesting an inactive status. The board shall establish, by rule
3 promulgated pursuant to chapter 1-26, requirements for an active and an inactive status.

4 Each certificate or license holder shall notify the board in writing within thirty days after its
5 occurrence of any change in employment or address.

1 **BILL HISTORY**

2 1/12/99 First read in House and referred to Commerce. H.J. 42

3 1/21/99 Scheduled for Committee hearing on this date.

4 1/26/99 Scheduled for Committee hearing on this date.

5 1/26/99 Commerce Do Pass Amended, Passed, AYES 12, NAYS 1. H.J. 185

6 1/28/99 House of Representatives Do Pass Amended, Passed, AYES 53, NAYS 15. H.J. 252

7 1/29/99 First read in Senate and referred to Commerce. S.J. 265

8 2/4/99 Scheduled for Committee hearing on this date.

9 2/4/99 Commerce Do Pass, Passed, AYES 5, NAYS 2. S.J. 331

10 2/5/99 Senate Deferred to another day. S.J. 358

11 2/8/99 Motion to Amend, Passed. S.J. 385

12 2/8/99 Senate Do Pass Amended, Passed, AYES 30, NAYS 4. S.J. 385

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

921C0389

HOUSE EDUCATION COMMITTEE ENGROSSED NO. **HB1067** - 2/5/99

Introduced by: Representatives Brown (Richard), Jaspers, Kooistra, Napoli, Solum, and
Volesky and Senators Everist, Dunn (Rebecca), and Rounds

1 FOR AN ACT ENTITLED, An Act to mandate driver's education, to increase certain fees, and
2 to make a continuous appropriation to provide funding.

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

4 Section 1. That chapter 13-33 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Any school district operating a secondary school shall offer a course in driver's education.

7 The school district may offer driver's education for academic credit, but is not required to do so.

8 A school district may offer driver's education through a contract with another school district or
9 a third-party provider so that driver's education is available to the school district's secondary

10 students. The school district shall allow any person between fourteen and nineteen years of age

11 to enroll in the driver's education course, whether or not the person is a student in the school

12 district. No person enrolled in driver's education courses may be included in a school district's

13 average daily membership for the purpose of state aid to education, unless that person normally

14 attends school in the school district. The course content of the driver's education course shall

15 comply with rules promulgated pursuant to chapter 1-26 by the Department of Education and

16 Cultural Affairs.

1 Section 2. That § 32-3-18 be amended to read as follows:

2 32-3-18. Application for a certificate of title shall be made to the secretary, upon a form
3 prescribed by the secretary, containing a full description of the vehicle with vehicle identification
4 numbers, if any, a statement of applicant's title and all liens and encumbrances thereon, the
5 county in which the vehicle is to be kept, the names and addresses of the holders of all liens, title
6 reservations and encumbrances thereon, and any other information as the secretary shall require.
7 The application shall be accompanied by a fee of ~~five~~ eight dollars. If a certificate of title has
8 previously been issued for the motor vehicle, trailer, or semitrailer in this state, it shall be
9 accompanied by the certificate of title duly assigned, unless provided for in this chapter.

10 Section 3. That § 32-12-16 be amended to read as follows:

11 32-12-16. The fee for an original driver's license or a renewal of a license is ~~eight~~ eighteen
12 dollars. The fee for a commercial license is twenty-five dollars if knowledge and skill testing is
13 required and fifteen dollars if no skill testing is required, and five dollars for each endorsement.
14 The fee for a duplicate license, a name change, or an address change is six dollars. The fee shall
15 be credited to the state motor vehicle fund.

16 Section 4. Notwithstanding § 13-42-4, the Department of Education and Cultural Affairs
17 shall issue a stand-alone teacher's certificate to teach driver's education to any person who has
18 completed eight semester hours of driver's education course work at an accredited postsecondary
19 institution.

20 Section 5. The Department of Education and Cultural Affairs and the Department of
21 Commerce and Regulation shall form a task force for the purpose of developing the course
22 guidelines for driver's education in secondary schools. The task force shall make a report of its
23 findings and recommendations to the Executive Board of the Legislative Research Council prior
24 to December 1, 1999.

25 Section 6. That chapter 32-12 be amended by adding thereto a NEW SECTION to read as

1 follows:

2 The Department of Commerce and Regulation may not issue an operator's license to any
3 person under eighteen years of age who has not successfully completed an approved course in
4 driver's education. This section does not apply to instructional or restricted permits.

5 Section 7. The increase in revenue resulting from the fee increases in sections 2 and 3 of this
6 Act shall be deposited into the driver's education reimbursement fund which is hereby created
7 as a separate fund in the state treasury.

8 Section 8. Each school district shall be reimbursed in the amount of one hundred fifty dollars
9 for each student who successfully completes the driver's education course offered by the school
10 district.

11 Section 9. There is hereby continuously appropriated from the driver's education
12 reimbursement fund any money in the fund to the Department of Education and Cultural Affairs
13 for the purpose of reimbursing school districts as provided in section 8 of this Act.

14 Section 10. If the amount of money in the driver's education reimbursement fund is not
15 sufficient to fund the entitlement provided for in section 8 of this Act, then there is hereby
16 appropriated to the driver's education reimbursement fund out of any money in the general fund
17 an amount necessary to fully fund the entitlement provided for in section 8 of this Act.

18 Section 11. The secretary of the Department of Education and Cultural Affairs shall approve
19 vouchers and the state auditor shall draw warrants to pay expenditures authorized by this Act.

20 Section 12. The Department of Education and Cultural Affairs may promulgate rules,
21 pursuant to chapter 1-26, to provide for the reimbursement to school districts as provided in this
22 Act.

23 Section 13. The Department of Commerce and Regulation may promulgate rules to establish
24 criteria for approved driver's education courses.

25 Section 14. Section 1 of this Act is effective August 15, 2000.

1 Section 15. Section 6 of this Act is effective September 1, 2001.

2 Section 16. That chapter 13-33 be amended by adding thereto a NEW SECTION to read as
3 follows:

4 Any person with a physical disability between the ages of fourteen to nineteen years old,
5 inclusive, who is capable of learning to operate a motor vehicle, including a vehicle modified to
6 be operated by a person with a physical disability, may enroll in any driver's education course
7 offered pursuant to section 1 of this Act. The course, if necessary, shall train the student in the
8 use of a vehicle modified for operation by a person with a physical disability and shall have
9 available adequate equipment and personnel to accomplish such training. Any school district that
10 provides training required pursuant to this section that results in costs in excess of the amount
11 provided pursuant to section 8 of this Act shall be reimbursed for the excess costs from the
12 amount set aside pursuant to § 13-37-40 for extraordinary expenses incurred in the provision of
13 special education programs or services.

1 **BILL HISTORY**

2 1/15/99 First read in House and referred to Education. H.J. 67

3 2/4/99 Scheduled for Committee hearing on this date.

4 2/4/99 Education Do Pass Amended, Passed, AYES 9, NAYS 1. H.J. 366

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

400C0871

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB1297** - 2/8/99

Introduced by: The Committee on State Affairs at the request of the Governor

1 FOR AN ACT ENTITLED, An Act to revise the circumstances under which it is not required
2 to provide reasonable efforts to reunite parents with children adjudicated as abused and
3 neglected.

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

5 Section 1. That § 26-8A-21.1 be amended to read as follows:

6 26-8A-21.1. Nothing in § 26-8A-21 requires reunification of a child with a parent who:

7 (1) Committed a crime defined in § 22-16-4, 22-16-7, 22-16-9, 22-16-15, 22-16-20, 22-
8 22-19.1, 22-22-22, or 26-10-1 or subdivision 22-22-1(1) or (2);

9 (2) Committed a crime defined in § 22-18-1.1 against the child or another child of such
10 parent; ~~or~~

11 (3) Has had parental rights to another child involuntarily terminated by a prior legal
12 proceeding under § 26-8A-26;

13 (4) Has a history of chronic alcohol or drug abuse; or

14 (5) Has demonstrated inability to protect the child from substantial harm or the risk of
15 substantial harm, and the child has been removed from the parent's custody because
16 the child has been adjudicated abused and neglected by a court on at least one

1 previous occasion.

2 Section 2. That § 26-8A-26.1 be amended to read as follows:

3 26-8A-26.1. In addition to the provisions of § 26-8A-26, the court may find that good cause
4 exists for termination of parental rights of a parent who:

5 (1) Committed a crime defined in § 22-16-4, 22-16-7, 22-16-9, 22-16-15, 22-16-20, 22-
6 22-19.1, 22-22-22, or 26-10-1 or subdivision 22-22-1(1) or (2);

7 (2) Committed a crime defined in § 22-18-1.1 against the child or another child of such
8 parent; ~~or~~

9 (3) Has had parental rights to another child involuntarily terminated by a prior legal
10 proceeding under § 26-8A-26;

11 (4) Has a history of chronic alcohol or drug abuse; or

12 (5) Has demonstrated inability to protect the child from substantial harm or the risk of
13 substantial harm, and the child has been removed from the parent's custody because
14 the child has been adjudicated abused and neglected by a court on at least one
15 previous occasion.

1 **BILL HISTORY**

2 2/1/99 First read in House and referred to committee assignment waived. H.J. 287

3 2/2/99 Referred to State Affairs. H.J. 319

4 2/8/99 Scheduled for Committee hearing on this date.

5 2/8/99 State Affairs Do Pass Amended, Failed, AYES 5, NAYS 8.

6 2/8/99 State Affairs Do Pass Amended, Passed, AYES 7, NAYS 6. H.J. 411

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

400C0688

HOUSE STATE AFFAIRS COMMITTEE
ENGROSSED NO. **HJR1007** - 2/8/99

Introduced by: The Committee on State Affairs at the request of the Governor

1 A JOINT RESOLUTION, Proposing and submitting to the electors at the next general election
2 an amendment to Article IX of the Constitution of the State of South Dakota, authorizing
3 local initiatives to provide for the cooperation and organization of local government.

4 BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF
5 SOUTH DAKOTA, THE SENATE CONCURRING THEREIN:

6 Section 1. That at the next general election held in the state, the following amendment to
7 Article IX of the Constitution of the State of South Dakota, as set forth in section 2, of this Joint
8 Resolution, which is hereby agreed to, shall be submitted to the electors of the state for approval.

9 Section 2. That Article IX of the Constitution of the State of South Dakota be amended by
10 adding a NEW SECTION to read as follows:

11 § 4. On or after January 1, 2001, the voters of any unit of local government shall have the
12 right to initiate proposals for cooperation within or between governmental units, either within
13 or without the state, except as the Legislature shall provide otherwise by law. Such proposals
14 may include combining, eliminating, and joint financing of offices, functions, and governmental
15 units. Such proposals shall be adopted if approved at an election by a majority of the votes cast
16 thereon in each affected unit. A number not less than fifteen percent of those voting in the last

1 preceding gubernatorial election in each affected jurisdiction may by petition initiate the question
2 of whether to adopt the proposal at the next general election. The Legislature by law shall
3 provide procedures to ensure the orderly implementation of this section.

1 **BILL HISTORY**

2 2/1/99 First read in House and referred to State Affairs. H.J. 283

3 2/4/99 Scheduled for Committee hearing on this date.

4 2/4/99 State Affairs Deferred to another day.

5 2/8/99 Scheduled for Committee hearing on this date.

6 2/8/99 State Affairs Do Pass Amended, Passed, AYES 13, NAYS 0. H.J. 412

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

943C0596

HOUSE TRANSPORTATION COMMITTEE

ENGROSSED NO. **SB93** - 2/8/99

Introduced by: Senators Staggers, Frederick, Hutmacher, Lange, Madden, Moore, and Vitter
and Representatives Kooistra, Lockner, Lucas, and McIntyre

1 FOR AN ACT ENTITLED, An Act to revise certain exemptions relating to the hauling of
2 agricultural products or livestock from farms.

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

4 Section 1. That § 32-22-16.3 be amended to read as follows:

5 32-22-16.3. No vehicle hauling agricultural products from farm storage or livestock from a
6 farm is subject to enforcement action for violations not exceeding the legal limits imposed
7 pursuant to § 32-22-16 or 32-22-21 by more than five percent. However, such vehicle may not
8 exceed the speed of ~~forty~~ fifty miles per hour and is only exempt pursuant to this section within
9 a range of fifty miles of the farm. Such vehicle may not exceed the posted weight of any bridge
10 or road. The weight tolerance authorized in this section is not applicable during spring load
11 restrictions as set forth in § 32-22-24. If enforcement action is taken pursuant to this section, the
12 fine or penalty shall apply to that portion of the load that is above the legal limit. The weight
13 tolerance authorized in this section is not permitted on the interstate highway system. A violation
14 of this section is a Class 2 misdemeanor.

1 **BILL HISTORY**

2 1/22/99 First read in Senate and referred to Agriculture and Natural Resources. S.J. 159

3 1/26/99 Scheduled for Committee hearing on this date.

4 1/26/99 Agriculture and Natural Resources Do Pass, Passed, AYES 8, NAYS 1. S.J. 188

5 1/27/99 Senate Deferred to another day. S.J. 222

6 1/28/99 Motion to Amend, Passed. S.J. 239

7 1/28/99 Senate Do Pass Amended, Passed, AYES 30, NAYS 4. S.J. 240

8 1/29/99 First read in House and referred to Transportation. H.J. 272

9 2/8/99 Scheduled for Committee hearing on this date.

10 2/8/99 Transportation Do Pass Amended, Passed, AYES 12, NAYS 0. H.J. 410