

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

366E0136

SENATE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **HB 1200** - 02/14/2001

Introduced by: Representatives Broderick, Hargens, and Pummel and Senators Greenfield, Ham, Hutmacher, and Munson

1 FOR AN ACT ENTITLED, An Act to require certain format standards for real estate
2 documents filed at the register of deeds.

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

4 Section 1. That chapter 43-28 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Any real estate document recorded with the register of deeds, except for plats, shall:

7 (1) Consist of one or more individual sheets measuring no larger than 8.5 inches by 14
8 inches. Beginning on July 1, 2004, the document shall consist of one or more
9 individual sheets measuring no larger than 8.5 inches by 11 inches. No sheet may be
10 attached or affixed to a page that covers up any information or printed material on the
11 document. Any continuous document or any document sheets that are stapled, glued,
12 or bound together are subject to the additional fee established pursuant to subdivision
13 7-9-15(1);

14 (2) Be printed, typewritten, or computer generated in black ink and the print type of the

1 document may not be smaller than 10-point type;

2 (3) Be on white paper of not less than twenty pound weight;

3 (4) Contain a blank space at the top measuring three inches as measured from the top of
4 the page. The right half shall be used by the register of deeds for recording
5 information and left half used to designate the document preparer as required pursuant
6 to § 7-9-1. Any subsequent page shall have a minimum of a one inch margin on each
7 side;

8 (5) Have a title prominently displayed at the top of the first page below the blank space
9 referred to in subdivision (4) of this section;

10 (6) Be sufficiently legible to reproduce a readable copy using the register of deed's current
11 method of reproduction; and

12 (7) Conform to the standards provided in subdivision (1) of this section or be subject to
13 the increased fees as provided in § 7-9-15.

14 Section 2. That § 7-9-15 be amended to read as follows:

15 7-9-15. The register of deeds shall charge and receive the following fees:

16 (1) For recording deeds, mortgages, and all other instruments not specifically provided
17 for in this section or this code, the sum of ten dollars for the first page and two dollars
18 for each additional page or fraction thereof. Each rider or addendum shall be
19 considered as an additional page. If a real estate document recorded with the register
20 of deeds does not conform to section 1 of this Act, the sum of ten dollars shall be
21 charged in addition to the fees specified in this subdivision;

22 (2) For a certified copy of any instrument of record, including certificate and official seal,
23 two dollars plus twenty cents for each page after five pages, and for an uncertified
24 copy, one dollar, plus twenty cents for each page after five pages. The board of

1 county commissioners by resolution shall establish the fees charged for duplicate
2 microfilm. In addition to the fee for a certified copy of the record of any birth, there
3 is an additional charge of two dollars for each copy requested, which shall be
4 submitted on a monthly basis to the state treasurer to be deposited in the children's
5 trust fund;

6 (3) For filing and indexing a bill of sale, seed grain lien, or thresher's lien, the sum of ten
7 dollars. No fee may be charged for filing any satisfaction or termination of any
8 instrument as prescribed in this subdivision;

9 (4) For recording oil, gas, and mineral leases, and other recorded documents relating to
10 mineral or oil and gas lease exploration and development, six dollars per page; and

11 (5) Notwithstanding the provisions of subdivision (2) of this section, the board of county
12 commissioners shall fix by resolution the fees to be paid by licensed abstracters of the
13 county or by any person who has passed the written examination established by the
14 Abstracters' Board of Examiners pursuant to § 36-13-11 for uncertified copies of
15 recorded instruments, which fee may not exceed the actual cost to the county for
16 providing such copies.

17 The register of deeds may not charge a fee for discharging or canceling any personal property
18 lien.

19 Section 3. This Act is effective on July 1, 2002.

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

447E0375

SENATE TAXATION COMMITTEE ENGROSSED NO.

HB 1216 - 02/14/2001

Introduced by: Representatives Lange, Burg, Flowers, Hanson (Gary), Hargens, Holbeck, Klautt, Kloucek, Kooistra, Lintz, Nachtigal, Peterson (Jim), Sigdestad, and Van Norman and Senators Koetzle and Reedy

1 FOR AN ACT ENTITLED, An Act to revise the procedure for filing for a property tax credit
2 for renewable resource energy systems.

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

4 Section 1. That § 10-6-35.16 be amended to read as follows:

5 10-6-35.16. An applicant for an energy property tax assessment credit shall file two copies
6 of the statement with the ~~auditor~~ county director of equalization of the county in which the
7 property is located and one copy with the Department of Revenue. An owner of more than one
8 renewable resource energy system shall file a separate statement for each system. The statement
9 shall be filed between November first and December tenth of ~~each~~ the first year for which the
10 credit is to be applied. The applicant does not need to resubmit the application for the property
11 tax assessment credit unless the property ownership is transferred or the property has a change
12 in use.

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

376E0048

SENATE ENGROSSED NO. **SB 9** - 01/29/2001

Introduced by: Senators Vitter, Diedrich (Elmer), Drake, and Symens and Representatives Fryslie, Hanson (Gary), Konold, and Lintz at the request of the Interim Agriculture and Natural Resources Committee

1 FOR AN ACT ENTITLED, An Act to revise certain provisions pertaining to landowner liability
2 for injuries sustained on flooded land.

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

4 Section 1. That § 20-9-11 be amended to read as follows:

5 20-9-11. ~~No~~ Notwithstanding the provisions of subdivision 20-9-16(1), no cause of action
6 may arise against the owner, tenant, or lessee of any real estate for any injury to any person or
7 death resulting therefrom or damage to property of such person when such person is on the
8 flooded lands of the owner, tenant, or lessee, with or without permission, ~~irrespective of the~~
9 ~~method or means by which the trespass occurred,~~ unless such death or injuries were caused by
10 the ~~gross negligence~~ or willful and wanton misconduct of the owner, tenant or lessee.

11 This section does not affect the doctrine of attractive nuisance or other legal doctrines
12 relating to the liability arising from artificial conditions highly dangerous to children. This section
13 does not preempt the standard of liability which a landowner owes to a person who has paid a
14 charge to enter the land pursuant to subdivision 20-9-16(2).

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

400E0298

SENATE COMMERCE COMMITTEE ENGROSSED NO. **SB 40** - 01/12/2001

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

1 FOR AN ACT ENTITLED, An Act to exempt from registration certain Canadian broker-dealers
2 and the securities offered by them.

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

4 Section 1. That § 47-31A-401(c) be amended by adding thereto a NEW SUBSECTION to
5 read as follows:

6 (5) A broker-dealer who is a resident of Canada, has no office or other physical presence
7 in this state, and complies with the following conditions:

8 (a) Is a member of a self-regulatory organization or stock exchange in Canada;

9 (b) Maintains a provincial or territorial registration and a membership in a self-
10 regulatory organization or stock exchange in good standing;

11 (c) Is not in violation of § 47-31A-101; and

12 (d) Only effects or attempts to effect transactions in securities:

13 (i) With or for a person from Canada who is temporarily present in this
14 state, with whom the Canadian broker-dealer had a bona fide business-

1 client relationship before the person entered this state; or

2 (ii) With or for a person from Canada who is present in this state, whose
3 transactions are in a self-directed tax-advantaged retirement plan in
4 Canada of which the person is the holder or contributor.

5 Section 2. That § 47-31A-402(b) be amended by adding thereto a NEW SUBSECTION to
6 read as follows:

7 (16) An offer or sale of a security effected by a person excluded from the definition of
8 broker-dealer under § 47-31A-401(c)(5).

9 Section 3. That § 47-31A-201(g) be repealed.

10 ~~—(g) A broker-dealer that is resident in Canada and has no office or other physical presence~~
11 ~~in this state may, provided the broker-dealer is registered in accordance with this chapter, and~~
12 ~~any rules or orders as prescribed by the director, effect transactions in securities with or for, or~~
13 ~~induce or attempt to induce the purchase or sale of any security by: (1) A person from Canada~~
14 ~~who is temporarily resident in this state, with whom the Canadian broker-dealer had a bona fide~~
15 ~~broker-dealer client relationship before the person entered the United States; or (2) A person~~
16 ~~from Canada who is a resident in this state, whose transactions are in self-directed tax~~
17 ~~advantaged retirement plan in Canada of which the person is the holder or contributor.~~

18 Section 4. That § 47-31A-201(h) be repealed.

19 ~~—(h) An agent who will be representing a Canadian broker-dealer registered under this section~~
20 ~~may, provided the agent is registered in accordance with this chapter, effect transactions in~~
21 ~~securities in this state as permitted for the broker-dealer in subdivision 47-31A-201(g) and any~~
22 ~~rules or orders as prescribed by the director.~~

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

400E0292

SENATE ENGROSSED NO. **SB 43** - 01/25/2001

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

1 FOR AN ACT ENTITLED, An Act to establish within the State Board of Chiropractic
2 Examiners a disciplinary committee and an ethics committee and to authorize a fee for peer
3 review.

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

5 Section 1. That § 36-5-19 be amended to read as follows:

6 36-5-19. The board of examiners may act as a peer review committee or may appoint other
7 licensed chiropractors to perform such function. No monetary liability on the part of, and no
8 cause of action for damages may arise against any member of a duly appointed peer review
9 committee comprised of chiropractors licensed to practice in this state, for any act or proceeding
10 undertaken or performed within the scope of the functions of such committee formed to maintain
11 the professional standards of the board of examiners as provided in rules promulgated by the
12 board pursuant to chapter 1-26, if the committee member acts without malice, has made a
13 reasonable effort to obtain the facts of the matter on which the member acts, and acts in
14 reasonable belief that the action taken is warranted by the facts as known by the member after
15 a reasonable effort to obtain facts. The provisions of this section do not affect the official

1 immunity of an officer or employee of a public corporation. The contested case provisions of
2 chapter 1-26 do not apply to activities of the peer review committee. All licensees shall, as a
3 condition of licensure, fully cooperate with and promptly respond to inquiries and requests from
4 the committee. The recommendations of the committee as to necessity for services of a licensee,
5 and as to reasonableness of charges and procedures shall be reported to the person who
6 requested the review and one member of the board of examiners as designated by the board. The
7 board may, by rules promulgated pursuant to chapter 1-26, establish a fee not to exceed seven
8 hundred fifty dollars to help defray the cost of the review. However, no patient of a licensee
9 requesting a peer review is subject to this fee.

10 Section 2. That chapter 36-5 be amended by adding thereto a NEW SECTION to read as
11 follows:

12 The board of examiners may act as a disciplinary committee or may appoint other
13 chiropractors licensed to practice in this state to perform such functions to maintain the
14 professional standards of the board. No monetary liability on the part of, and no cause of action
15 for damages may arise against any member of a duly appointed disciplinary committee for any
16 act or proceeding undertaken or performed within the scope of the functions of the committee,
17 if the committee member acts without malice, has made a reasonable effort to obtain the facts
18 of the matter on which the member acts, and acts in a reasonable effort to obtain the facts. The
19 provisions of this section do not affect the official immunity of an officer or employee of a public
20 corporation.

21 The board may promulgate rules pursuant to chapter 1-26 governing the administration and
22 enforcement of this section and the conduct of licensees, including:

- 23 (1) Purpose of disciplinary committee;
- 24 (2) Composition of the disciplinary committee;

1 (3) Qualifications of disciplinary committee;

2 (4) Procedure governing the conduct of investigations and hearings by the disciplinary
3 committee.

4 Section 3. That chapter 36-5 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 The board of examiners may act as an ethics committee or may appoint other chiropractors
7 licensed to practice in this state to perform such functions to maintain the professional standards
8 of the board. No monetary liability on the part of, and no cause of action for damages may arise
9 against any member of a duly appointed ethics committee for any act or proceeding undertaken
10 or performed within the scope of the functions of the committee if the committee member acts
11 without malice, has made a reasonable effort to obtain the facts of the matter on which the
12 member acts, and acts in the reasonable belief that the action taken is warranted by the facts as
13 known by the member after a reasonable effort to obtain the facts. The provisions of this section
14 do not affect the official immunity of an officer or employee of a public corporation.

15 The board may promulgate rules pursuant to chapter 1-26 governing the administration and
16 enforcement of this section and the conduct of licensees, including:

17 (1) Purpose of ethics committee;

18 (2) Composition of the ethics committee;

19 (3) Qualifications of ethics committee;

20 (4) Procedure governing the conduct of investigations and hearings by the ethics
21 committee;

22 (5) Adoption of declaratory rules on ethical issues.

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

400E0272

SENATE ENGROSSED NO. **SB 46** - 01/23/2001

Introduced by: The Committee on Taxation at the request of the Department of Revenue

1 FOR AN ACT ENTITLED, An Act to authorize the department to issue direct payment permits
2 in certain instances.

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

4 Section 1. That chapter 10-46 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 The secretary of revenue may authorize a retailer to use a direct payment permit if the retailer
7 purchases goods or services subject to the tax imposed by chapter 10-45. Applicants for a direct
8 payment permit shall apply in writing to the secretary. A retailer may appeal the denial of a direct
9 payment permit or contest a revocation of a direct payment permit pursuant to chapters 1-26 and
10 1-26D. For purposes of this section, the term, direct payment permit, means a permit issued by
11 the department that allows a holder of the permit to accrue and pay the taxes imposed by chapter
12 10-45 directly to the department. A retailer that makes a sale to a direct payment permit holder
13 has no liability for sales tax on such sale if the retailer has written evidence of the sale. Such
14 written evidence shall clearly indicate the name of the buyer, the product or service purchased,
15 and the amount of the purchase. The secretary of revenue may promulgate rules pursuant to

1 chapter 1-26 concerning the administration and use of a direct payment permit.

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

400E0226

SENATE EDUCATION COMMITTEE ENGROSSED NO. **SB 63** - 01/16/2001

Introduced by: The Committee on Education at the request of the Department of
Education and Cultural Affairs

1 FOR AN ACT ENTITLED, An Act to revise the definition of illegal substances for purposes of
2 revoking or refusing to issue a certificate to a teacher or administrator.

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

4 Section 1. That § 13-42-10 be amended to read as follows:

5 13-42-10. The secretary of the Department of Education and Cultural Affairs may revoke
6 the certificate of any teacher or administrator, or refuse to issue a certificate to an applicant, for
7 such period of time as ~~he shall deem~~ the secretary considers advisable, if such person has been
8 convicted of any crime involving moral turpitude, including traffic in ~~narcotics~~ either controlled
9 substances or marijuana, or both. Suspension of the sentence is not cause to affect this action.

10 Nor may suspended imposition of a sentence for violation of subdivision 22-22-1(1), subdivision
11 22-22-1(5), or § 22-22-7 be cause to affect this action. Proof of such conviction and sentence
12 shall consist of a duly certified copy of the court record.

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

118E0278

SENATE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **SB 124** - 01/31/2001

Introduced by: Senators Everist, Apa, Brown (Arnold), Dennert, Diedrich (Larry),
Diedrich (Elmer), Hutmacher, Koetzle, McCracken, McIntyre, Moore,
Munson, Olson (Ed), Sutton (Dan), and Symens and Representatives
Richter, Broderick, Brown (Richard), Davis, Duniphan, Elliott, Flowers,
Hennies (Thomas), Holbeck, Jaspers, Juhnke, Kooistra, Madsen, Michels,
Murschel, Olson (Mel), Smidt, and Teupel

1 FOR AN ACT ENTITLED, An Act to allow for the deposit of certain funds and for the
2 repayment of certain contracts relating to energy savings.

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

4 Section 1. If a school district enters into an energy savings contract pursuant to
5 chapter 1-33B, the school district may deposit the proceeds from any loan related to the energy
6 savings contract into its general fund or its capital outlay fund. The school district may deposit
7 money resulting from energy savings pursuant to an energy savings contract into its general fund
8 or its capital outlay fund. The school district may repay the loan pursuant to an energy savings
9 contract out of money in its general fund or its capital outlay fund.

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

772E0516

SENATE TAXATION COMMITTEE ENGROSSED NO.

SB 140 - 01/31/2001

Introduced by: Senators Sutton (Dan), Diedrich (Larry), and Koskan and Representatives Lange, Flowers, Hargens, Kloucek, and Konold

1 FOR AN ACT ENTITLED, An Act to clarify certain provisions relating to the payment of taxes
2 to municipalities from the revenues of electric cooperatives providing service within a
3 municipality.

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

5 Section 1. That § 49-34A-45 be amended to read as follows:

6 49-34A-45. A rural electric cooperative serving less than a majority of customers in a
7 municipality not having a municipally owned system, ~~shall~~ may, at the option of the municipality,
8 pay in addition to other taxes provided by law, an amount each and every year equal to two
9 percent of the total gross revenues received by the cooperative for that year from the sale of
10 power distributed to structures and electric service outlets situated within the municipality.

11 Section 2. That § 49-34A-46 be amended to read as follows:

12 49-34A-46. Any electric utility with facilities within the boundaries of a municipality, as they
13 exist from time to time, which has a municipally owned electric system serving over fifty percent
14 of the customers in ~~said~~ the municipality, shall may, at the option of the municipality, pay to the

1 municipality an amount to be agreed upon by the electric supplier and the governing body of the
2 municipality. If the parties have not agreed on the amount on or before May first following the
3 calendar year from which the amount is to be paid, the amount to be paid shall be four percent
4 of the total gross revenue collected by the electric supplier from the sale of power delivered to
5 structures and electric service outlets situated within the municipality during the year for which
6 the amount is paid.

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

352E0358

SENATE EDUCATION COMMITTEE ENGROSSED NO.

SB 145 - 02/01/2001

Introduced by: Senators Brosz, Ham, McCracken, and Olson (Ed) and Representatives
Holbeck, Garnos, Solum, and Wick

1 FOR AN ACT ENTITLED, An Act to revise residency for the purposes of special education and
2 to revise the distribution of state aid to special education.

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

4 Section 1. That § 13-28-9.1 be amended to read as follows:

5 13-28-9.1. A child in need of special education or special education and related services
6 assigned to and enrolled in an approved out of district special education residential or tuition day
7 special education program by an individualized education program team has school residence in
8 the school district of the school board making the assignment. The residency of the assigned a
9 child assigned to an approved out of district special education residential or tuition day program
10 may not change for the duration of the school fiscal year in which the child is enrolled, unless the
11 child ceases to be an enrolled member in the special education program until the end of the fiscal
12 year or until the parent or guardian enrolls the child in another school district, and that school
13 district provides special education services to the child.

14 Section 2. That chapter 13-37 be amended by adding thereto a NEW SECTION to read as

1 follows:

2 If the parents or guardian of a child assigned to and enrolled in an out of district special
3 education residential or tuition day program move to another South Dakota school district and
4 that school district provides special education services to the child, the Department of Education
5 and Cultural Affairs shall allocate any state aid to special education attributable to the child
6 received or scheduled to be received by the resident school district as defined by § 13-28-9.1 to
7 the school district to which the parents or guardian have moved for the period of time that the
8 resident school district is not providing special education services to the child. For the purposes
9 of this Act, an approved special education program includes out-of-district residential programs
10 and tuition day programs.

11 Section 3. The Department of Education and Cultural Affairs may promulgate rules pursuant
12 to Chapter 1-26 to provide for the reallocation of state aid to special education as provided for
13 in this Act.

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

145E0148

SENATE ENGROSSED NO. **SB 146** - 02/14/2001

Introduced by: Senators Brosz, Daugaard, Ham, McCracken, Munson, and Olson (Ed) and
Representatives Garnos, Konold, McCoy, and Solum

1 FOR AN ACT ENTITLED, An Act to require that certain findings and recommendations of the
2 state fire marshal be included in a school board's minutes and to require certain inspections.

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

4 Section 1. The state fire marshal shall provide a written summary of findings and
5 recommendations resulting from school inspections to each member of the school board and to
6 the superintendent or chief administrative officer of a school district. The fire marshal's summary
7 shall be included in the minutes of the school board and shall be published in the same manner
8 as other school board minutes after a public hearing.

9 Section 2. The superintendent or chief administrative officer of a school district shall develop
10 a plan by which to comply with the recommendations of the state fire marshal. The plan shall be
11 included in the minutes of the school board and shall be published in the same manner as other
12 school board minutes.

13 Section 3. The school board who is responsible for implementing the recommendations of
14 the state fire marshal provided for in section 1 of this Act shall do so in a timely manner.

15 Section 4. Each superintendent or chief operating officer of a school district shall provide for

1 the physical inspection of any classroom building completed before 1950 by the state engineer.
2 The inspection provided for by this section shall be completed no later than September 1, 2002.
3 The findings of the inspection shall be included in the minutes of the school board, and shall be
4 published in the same manner as other school board minutes after a public hearing. The results
5 of the inspection shall be filed with the Department of Education and Cultural Affairs.

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

471E0527

SENATE AGRICULTURE AND NATURAL RESOURCES COMMITTEE ENGROSSED NO. **SB 152** - 01/30/2001

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Senators Bogue, Diedrich (Larry), Diedrich (Elmer), Duxbury, Hainje, Ham, Hutmacher, Kleven, and Symens and Representatives Duenwald, Hansen (Tom), Hanson (Gary), Hargens, Jensen, Klaudt, Lintz, Pitts, and Rhoden

1 FOR AN ACT ENTITLED, An Act to revise certain vaccination and brucellosis testing
2 provisions related to the importation of livestock.

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

4 Section 1. That § 40-7-20 be repealed.

5 ~~—40-7-20. No person may bring or cause to be brought into this state any female cattle or~~
6 ~~bison over twelve months of age for dairy or breeding purposes within this state that have not~~
7 ~~been officially calfhood vaccinated against brucellosis and are negative to the brucellosis test~~
8 ~~administered within thirty days prior to importation, if such livestock are test-eligible pursuant~~
9 ~~to rules promulgated by the animal industry board. No person may bring or cause to be brought~~
10 ~~into this state any livestock that originate in herds or lots if the herd or lot when tested revealed~~
11 ~~suspects or reactors to a brucellosis test, until the herd or lot has subsequently passed a negative~~
12 ~~test at least thirty days after the suspect or reactor was removed from the herd or lot in which~~
13 ~~it originated.~~

1 ~~—No person may acquire any female breeding cattle or bison between twelve and twenty-four~~
2 ~~months of age that are not officially calfhood vaccinated against brucellosis.~~

3 ~~—"Officially calfhood vaccinated" means that a bovine or bison female animal was vaccinated~~
4 ~~against brucellosis while from four to twelve months of age, under the supervision of a federal~~
5 ~~or state veterinary official, with a vaccine approved by the animal industry board, and~~
6 ~~permanently identified as such a vaccinate and reported at the time of vaccination to the~~
7 ~~appropriate state or federal agency cooperating in eradication of brucellosis. Any person~~
8 ~~violating the provisions of this section is guilty of a Class 6 felony.~~

9 Section 2. That § 40-7-20.1 be amended to read as follows:

10 40-7-20.1. The Animal Industry Board shall promulgate rules pursuant to chapter 1-26
11 concerning:

- 12 (1) The issuance of permits for the disposition for immediate slaughter or for feeding
13 purposes of animals affected with brucellosis;
- 14 (2) The methodology for inspections, examinations, and testing for brucellosis;
- 15 (3) The methodology and criteria for certifying or recertifying an area brucellosis free;
- 16 (4) Vaccination requirements and procedures for the intrastate sale, loan, lease, and
17 transportation of breeding animals;
- 18 (5) Livestock importation permits and testing and inspection requirements; ~~and~~
- 19 (6) Quarantine authority and procedures; and
- 20 (7) The vaccination requirements and procedures for the importation of breeding animals.

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

400E0723

SENATE COMMERCE COMMITTEE ENGROSSED NO.

SB 161 - 02/01/2001

Introduced by: Senators Diedrich (Larry), Brosz, Brown (Arnold), Diedrich (Elmer),
Madden, and Putnam and Representatives Jaspers, Juhnke, Michels, and
Van Gerpen

1 FOR AN ACT ENTITLED, An Act to regulate petroleum products containing methyl tertiary
2 butyl ether.

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

4 Section 1. That chapter 37-2 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 No person may sell, offer for sale, or store petroleum products containing or treated with
7 methyl tertiary butyl ether. The provisions of this section do not apply if the presence of methyl
8 tertiary butyl ether in a petroleum product is caused solely by incidental commingling of methyl
9 tertiary butyl ether with the petroleum product during storage or transfer of the petroleum
10 product and the concentration of methyl tertiary butyl ether in the petroleum product does not
11 exceed one-half of one percent by volume. In no event may the provisions of this section be
12 construed to permit the knowing or willful addition of methyl tertiary butyl ether to any
13 petroleum product.

14 Section 2. That § 37-2-32 be repealed.

1 ~~37-2-32. No retailer may offer for sale any petroleum product containing more than two~~
2 ~~percent of methyl tertiary butyl ether by volume.~~

3 Section 3. That § 37-2-16 be amended to read as follows:

4 37-2-16. A violation of any provision in §§ 37-2-5 to 37-2-24, inclusive, and § ~~37-2-32~~
5 section 1 of this Act is a Class 2 misdemeanor.

6 Section 4. That § 37-2-30 be amended to read as follows:

7 37-2-30. Any gasoline kept, offered, or exposed for sale, or sold, at retail containing two
8 percent or more by volume of any oxygenate or combination of oxygenates shall be identified
9 as "with" or "contains" the specific type of oxygenate or combination of oxygenates in the
10 gasoline. For example, the label may read "contains ethanol" ~~or "with MTBE/ETBE."~~. This
11 information shall be posted on the upper fifty percent of the dispenser front panel in a position
12 clear and conspicuous from the driver's position in a type at least one inch in height and a width
13 of type of at least one-sixteenth inch stroke.

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

717E0623

SENATE COMMERCE COMMITTEE ENGROSSED NO.

SB 162 - 02/01/2001

Introduced by: Senators Diedrich (Larry), Brosz, Brown (Arnold), Daugaard, Vitter, and Whiting and Representatives Pitts, Begalka, Brown (Richard), Clark, Fryslie, Hanson (Gary), Hargens, Holbeck, Jensen, Lintz, and Murschel

1 FOR AN ACT ENTITLED, An Act to permit farm wineries to hold an off-sale package wine
2 license.

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

4 Section 1. That § 35-4-2 be amended to read as follows:

5 35-4-2. Classes of licenses, with the fee of each class, follow:

6 (1) Distillers ---- four thousand dollars. However, no license fee is required for
7 manufacturers of alcohol for use in industry as a nonbeverage. If such manufacturer
8 of industrial alcohol shall at any time manufacture, produce, distill, sell, barter, or
9 dispose of alcohol for any use other than an industrial use, the license fee required by
10 this section shall be allocated to and payable for the portion of the year the
11 manufacturer devoted to such other use for each calendar month or fraction thereof
12 while so engaged, but in no case less than one-twelfth of said license fee;

13 (2) Wholesalers of alcoholic beverages ---- five thousand dollars;

14 (3) Off-sale ---- not to exceed five hundred dollars in municipalities of the first class, four

1 hundred dollars in municipalities of the second class, and three hundred dollars in
2 municipalities of the third class;

3 (4) On-sale ---- in municipalities of various classes: municipalities of the first class, not
4 less than one dollar for each person residing within the municipality as measured by
5 the last preceding federal census, the renewal fee for such license is fifteen hundred
6 dollars; municipalities of the second class, no more than twelve hundred dollars;
7 municipalities of the third class, no more than nine hundred dollars;

8 (5) Off-sale licenses issued to municipalities under local option ---- two hundred fifty
9 dollars;

10 (6) On-sale licenses issued outside municipalities ---- except as provided in § 35-4-11.9,
11 not less than the maximum that the municipality to which the applicant is nearest is
12 charging for a like license in that municipality, the renewal fee shall be the same as is
13 charged for a like license in the nearest municipality. However, if the nearest
14 municipality is more than fifteen miles from the on-sale license, the fee shall be
15 established pursuant to § 35-4-11.10. If the municipality to which the applicant is
16 nearest holds an on-sale license, pursuant to § 35-3-13 and does not charge a
17 specified fee, then the fee shall be the maximum amount that could be charged as if
18 the municipality had not been authorized to obtain on-sale licenses pursuant to
19 § 35-3-13. However, if the nearest municipality is a municipality of the first class and
20 is authorized to hold an on-sale license pursuant to § 35-3-13, such fee may not be
21 more than one hundred fifty percent of the minimum a municipality not so authorized
22 may charge for a like license. The renewal fee shall be the same as could be charged
23 for a like license in the nearest municipality;

24 (7) Solicitors ---- twenty-five dollars;

- 1 (8) Transportation companies ---- twenty-five dollars;
- 2 (9) Carrier ---- one hundred dollars, which fee shall entitle the licensee to sell or serve
3 alcoholic beverages on all conveyances they operate within the state;
- 4 (10) Dispensers ---- ten dollars;
- 5 (11) On-sale dealers at publicly operated airports ---- two hundred fifty dollars;
- 6 (12) On-sale dealers in wine for Sunday ---- five hundred dollars;
- 7 (13) Convention facility on-sale ---- not less than one dollar for each person residing within
8 the municipality as measured by the last preceding federal census, the renewal fee for
9 such license, in municipalities of the first class, is fifteen hundred dollars; the renewal
10 fee for such license, in municipalities of the second class, is no more than twelve
11 hundred dollars; the renewal fee for such license, in municipalities of the third class,
12 is no more than nine hundred dollars;
- 13 (14) Manufacturers of malt beverages ---- five hundred dollars;
- 14 (15) Wholesalers of malt beverages ---- four hundred dollars;
- 15 (16) Malt beverage retailers, being both package dealers and on-sale dealers ---- two
16 hundred fifty dollars;
- 17 (17) Malt beverage package dealers ---- one hundred fifty dollars; ~~and~~
- 18 (18) On-sale dealers in light wine containing not more than six percent alcohol by weight
19 for each day of the week between the hours of seven o'clock a.m. and two o'clock
20 a.m. to nonprofit corporations established pursuant to chapter 7-27 ---- two hundred
21 dollars; and
- 22 (19) Off-sale package wine dealers in table wines, sparkling wines, and sacramental wine
23 to be operated in conjunction with a farm winery established pursuant to chapter 35-
24 12 ---- one hundred fifty dollars.

1 Section 2. That § 35-4-6 be amended to read as follows:

2 35-4-6. Except as provided in subdivisions 35-4-2(16)~~and~~, (17), and (19), off-sale licenses
3 ~~shall~~ may be issued under this chapter only to operate within ~~municipalities~~ a municipality.

4 Section 3. That § 35-4-11.1 be amended to read as follows:

5 35-4-11.1. If not previously fixed by ordinance or continuing resolution, the board of county
6 commissioners shall on or before the first of September in each year determine the number of
7 on-sale licenses it will approve for the ensuing calendar year and the fees to be charged for the
8 various classifications of licenses. The number of licenses issued may not exceed three for the
9 first one thousand of population and may not exceed one for each additional fifteen hundred of
10 population or fraction thereof, the population to include only those residing within the county
11 but outside the incorporated municipalities and improvement districts, created pursuant to
12 chapter 7-25A, within the county. However, any license issued in an improvement district prior
13 to July 1, 2000, shall be included when calculating the total number of licenses that may be issued
14 by the county where the improvement district is located. No licensee regularly licensed to do
15 business on July 1, 1981, may be denied reissuance of a license in subsequent years solely by
16 reason of any limitations, based upon population quotas, of the number of licenses authorized
17 or established under the provisions of this title. Licenses issued to concessionaires, and lessees
18 of the State of South Dakota, within the boundaries of state parks, prior to January 1, 1983, may
19 be subtracted when calculating the total number of licenses permitted in this section. The quotas
20 established in this section do not apply to licenses issued pursuant to subdivisions 35-4-2(16)
21 ~~and~~, (17), and (19).

22 Section 4. That § 35-4-81.1 be amended to read as follows:

23 35-4-81.1. No off-sale licensee, licensed under subdivisions 35-4-2(3)~~and~~, (5), and (19), may
24 sell, or allow to be sold, alcoholic beverages between the hours of twelve o'clock p.m. midnight

1 and seven o'clock a.m. of the following day, or sell, or allow to be sold, distilled spirits or wine
2 on Memorial Day or Christmas Day. In addition, no off-sale licensee may sell, or allow to be
3 sold, alcoholic beverages on Sunday unless the municipality or the county by ordinance allows
4 such sales on Sunday.

5 Section 5. That chapter 35-12 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 The holder of a farm winery license may also hold on the premises where the wine is
8 produced, an off-sale license issued pursuant to subdivision 35-4-2(19).

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

168E0680

SENATE COMMERCE COMMITTEE ENGROSSED NO.

SB 168 - 02/08/2001

Introduced by: Senators Daugaard, Bogue, and de Hueck and Representatives Monroe,
Duenwald, Garnos, and Klautd

1 FOR AN ACT ENTITLED, An Act to revise the provisions for issuing on-sale liquor licenses
2 to resort facilities.

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

4 Section 1. That § 35-4-107 be amended to read as follows:

5 35-4-107. Notwithstanding the provisions of § 35-4-11.1, each county may issue ~~one~~ three
6 resort facility on-sale ~~license for a resort facility constructed after July 1, 1997~~ licenses. For the
7 purposes of this section, a resort facility is a facility located in a county with a population of less
8 than two thousand persons at the time the license is initially issued and, in a bona fide manner,
9 is used and kept open for hosting guests for compensation which has at least ~~sixty~~ thirty rooms
10 that are suitable for lodging and which has facilities for the preparation and serving of food for
11 consumption on the premises. The resort facility license may be issued only if the licensee derives
12 less than thirty-three percent of the licensee's gross receipts from the sale of alcoholic beverages
13 on the premises where the license is held. For the purposes of this section, the term premises
14 means one contiguous piece of real property on which sales are generated by the licensee. This

1 section applies to any resort facility constructed after July 1, 1997.

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

355E0503

SENATE COMMERCE COMMITTEE ENGROSSED NO.

SB 201 - 02/01/2001

Introduced by: Senators Everist, Bogue, Daugaard, McCracken, Munson, Sutton (Dan),
Volesky, and Whiting and Representatives Brown (Richard), Brown
(Jarvis), Davis, Gillespie, Glenski, Konold, Madsen, Pederson (Gordon),
and Solum

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the exemption of
2 charitable gift annuities from insurance regulation.

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

4 Section 1. That § 58-1-16 be amended to read as follows:

5 58-1-16. No provision of Title 58 applies to any qualified organization which issues a
6 charitable gift annuity within this state if the qualified organization has operated for a period of
7 ~~five~~ ten years and has a minimum of five hundred thousand dollars in unrestricted cash, cash
8 equivalents, or publicly traded securities, exclusive of the assets funding the annuity agreement
9 as of the date of the annuity agreement. For the purposes of this section, a charitable gift annuity
10 means a giving plan or method by which a gift of cash or other property is made to a qualified
11 organization in exchange for its agreement to pay an annuity. For the purposes of this section,
12 a qualified organization means an organization which is either domiciled in South Dakota; and
13 has its principal place of business in South Dakota or is qualified to do business in South Dakota

1 as a foreign corporation, and which is exempt from taxation under Section 501(c)(3) of the
2 Internal Revenue Code as a charitable organization and regularly files a copy of Federal Form
3 990 in the Office of the Attorney General or is exempt from taxation under Section 501(c)(3)
4 of the Internal Revenue Code as a religious organization or is exempt as a publicly owned or
5 nonprofit, privately endowed educational institution approved, accredited, or licensed by the
6 state board of education, the north central association of colleges and schools, or an equivalent
7 public authority of the jurisdiction where the institution is located.

8 Section 2. That chapter 58-1 be amended by adding thereto a NEW SECTION to read as
9 follows:

10 The provisions of this Act do not apply to any qualified organization that met the
11 requirements of § 58-1-16 and issued any charitable gift annuity prior to July 1, 2001.

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

644E0640

HOUSE HEALTH AND HUMAN SERVICES COMMITTEE ENGROSSED NO. **SB 245** - 02/16/2001

Introduced by: Senators Brown (Arnold), Brosz, Daugaard, Drake, Ham, Hutmacher,
McCracken, Olson (Ed), and Sutton (Dan) and Representatives Heineman,
Pitts, and Smidt

1 FOR AN ACT ENTITLED, An Act to create a health care access and preservation trust fund
2 and to provide that earnings from the fund be used for certain health care purposes.
3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:
4 Section 1. That § 28-6-33 be amended to read as follows:
5 28-6-33. There is hereby established in the state treasury a fund known as the
6 ~~intergovernmental transfer~~ health care access and preservation trust fund. The fund shall include
7 revenue received from publicly owned and operated nursing facilities for remittance to the fund
8 under § 28-6-31. The department shall administer the fund and shall adopt procedures for
9 participation by publicly owned and operated nursing facilities. All moneys designated for the
10 fund from whatever source derived shall be deposited with the state treasurer in the
11 ~~intergovernmental transfer~~ health care access and preservation trust fund, except for dollars
12 appropriated by the Legislature for fiscal year 2002 for the neuromuscular program, the diabetes
13 screening program, and the purchase of public access defibrillation equipment. The ~~amounts in~~
14 ~~the intergovernmental transfer~~ fund shall be invested pursuant to §§ 4-5-23 and 4-5-26 and the

1 earnings shall be deposited in the ~~intergovernmental transfer~~ health care access and preservation
2 interest fund.

3 Section 2. That chapter 28-6 be amended by adding thereto a NEW SECTION to read as
4 follows:

5 The health care access and preservation interest fund is established in the state treasury. The
6 fund shall be invested according to §§ 4-5-23 and 4-5-26. The investment earnings of the fund
7 shall be credited to the fund. The money in the fund shall be appropriated by the Legislature to
8 fund health care related uses.

9 Section 3. That § 28-6-31 be amended to read as follows:

10 28-6-31. Each publicly owned and operated nursing facility participating under the provisions
11 of §§ 28-6-28 to 28-6-36, inclusive, immediately upon receiving a payment under § 28-6-30,
12 shall remit the amount of that payment, less a transaction fee, to the department for credit to:

13 (1) The ~~intergovernmental transfer~~ health care access and preservation trust fund in an
14 amount equal to the applicable federal medical assistance percentage times the total
15 remittance to the department, less the transaction fee; and

16 (2) The department's other funds for all remaining amounts.

17 Section 4. That § 28-6-35 be amended to read as follows:

18 28-6-35. The department may promulgate rules pursuant to chapter 1-26 for the
19 administration of §§ 28-6-28 to 28-6-36, inclusive. The rules may include criteria for
20 establishing, funding, and administering the pool, criteria for participation in the
21 intergovernmental transfer, penalties for failing to immediately remit the funds to the department,
22 criteria for the transfer of funds, the establishment of transaction fees, and other policies to
23 facilitate the administration of the ~~intergovernmental transfer~~ health care access and preservation
24 trust fund ~~or~~, the funding pool, and the health care access and preservation interest fund.

1 Section 5. That § 28-6-36 be amended to read as follows:

2 28-6-36. Sections 28-6-28 to ~~28-6-36~~ 28-6-35, inclusive, and section 2 of this Act do not
3 create an entitlement to any funds. The department may disburse funds to the extent funds are
4 available and, within its discretion, to the extent such appropriations are approved.