



# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

870I0080

SENATE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1147** - 03/03/2003

Introduced by: Representatives Van Etten, Adelstein, Christensen, Craddock, Frost, Glenski, Hunhoff, Kraus, Lange, LaRue, McCoy, Miles, Peterson (Bill), Rave, Rounds, and Weems and Senators Sutton (Duane), Dempster, Knudson, and McCracken

1 FOR AN ACT ENTITLED, An Act to increase the tax on cigarettes and to declare an  
2 emergency.

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

4 Section 1. That § 10-50-3 be amended to read as follows:

5 10-50-3. A tax is imposed, whether or not a sale occurs, at the following rates on all  
6 cigarettes held in this state for sale by any person:

7 Class A, on cigarettes weighing not more than three pounds per thousand, ~~sixteen and~~  
8 ~~one-half~~ twenty-six and one-half mills on each cigarette.

9 Class B, on cigarettes weighing more than three pounds per thousand, ~~sixteen and~~  
10 ~~eight-tenths~~ twenty-six and one-half mills on each cigarette.

11 Section 2. Whereas, this Act is necessary for the support of the state government and its  
12 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full  
13 force and effect from and after its passage and approval.



# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

906I0497

SENATE TAXATION COMMITTEE ENGROSSED NO.

**HB 1157** - 03/03/2003

Introduced by: Representatives Teupel, Adelstein, Hennies, Konold, Madsen, McCoy, Pederson (Gordon), Solum, and Van Etten and Senators Olson (Ed), Duniphan, Ham, McCracken, Schoenbeck, and Vitter

1 FOR AN ACT ENTITLED, An Act to revise the application of the gross receipts tax on visitor  
2 related businesses.

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

4 Section 1. That § 10-45D-1 be amended by adding thereto a NEW SUBDIVISION to read  
5 as follows:

6 "Restaurant," any establishment where the public is invited to eat, dine, or purchase and carry  
7 out prepared food for immediate consumption.

8 Section 2. That § 10-45D-1 be amended by adding thereto a NEW SUBDIVISION to read  
9 as follows:

10 "Visitor intensive restaurant," any restaurant except any restaurant that does not derive fifty  
11 percent or more of its annual total gross receipts during the months of June, July, August, and  
12 September and has less than fifty-one seats based on the inspection records and license issued  
13 by the Department of Health. No restaurant or licensed food service that is operated in a movie  
14 theater; retail bakery; livestock auction; employee commissary and cafeterias; hospital; school



1 food service, stadium, or gym; college food service, stadium, or gym; military or service club;  
2 and tribal food service facility is, however, included.

3 Section 3. That chapter 10-45D be amended by adding thereto a NEW SECTION to read  
4 as follows:

5 There is hereby imposed a tax of one percent on the gross receipts from the sale of prepared  
6 food and nonalcoholic beverages by any visitor intensive restaurant. Any sale of alcoholic  
7 beverages, service, or parking by a visitor intensive restaurant is exempt from the tax imposed  
8 by this section. The tax imposed by this section on the gross receipts of any visitor-intensive  
9 restaurant shall apply to the gross receipts received by such restaurant during the months of June,  
10 July, August and September.

11 Section 4. That § 10-45D-2 be amended to read as follows:

12 10-45D-2. There is hereby imposed a tax of one percent on the gross receipts from any  
13 lodging establishment, campground, motor vehicle rental, visitor attraction, recreational  
14 equipment rental, recreational service, spectator event, and visitor-intensive business. The tax  
15 imposed by this section on the gross receipts of any visitor-intensive business shall apply to the  
16 gross receipts received by such business during the months of June, July, August, and September.  
17 The tax imposed by this section is in addition to any other tax imposed by chapters 10-45 and  
18 10-46. Tangible personal property, services, and admissions are subject to the tax imposed by  
19 this section only if subject to tax by chapters 10-45 and 10-46.

20 Section 5. That § 10-45D-3 be amended to read as follows:

21 10-45D-3. The revenue from the tax imposed by § 10-45D-2 shall be deposited in the  
22 tourism promotion fund created in § 1-42-31. Fifty percent of the revenue collected from tax  
23 imposed by section 3 of this Act on restaurants shall be disbursed by the Department of Tourism  
24 to the four officially recognized geographic tourism regions in South Dakota. The four regions

1 are southeast South Dakota tourism region, the glacial lakes and prairies tourism region, the  
2 great lakes of South Dakota tourism region, and the Black Hills Badlands and lakes tourism  
3 region. The disbursement to each region shall be in proportion to the amount of such tax revenue  
4 generated by restaurants within each respective tourism region. The Department of Tourism shall  
5 ensure that all disbursements to the regions are used exclusively for regional tourism marketing.  
6 The Department of Tourism shall promulgate rules, pursuant to chapter 1-26, to ensure the  
7 expenditure of funds are in compliance with this section.

# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

400I0276

## HOUSE ENGROSSED NO. **SB 35** - 03/05/2003

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

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

1 FOR AN ACT ENTITLED, An Act to exempt certain gross receipts from sales and use taxes.

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

3 Section 1. That chapter 10-45 be amended by adding thereto a NEW SECTION to read as  
4 follows:

5 There are hereby exempted from the provisions of this chapter and the tax imposed by it,  
6 gross receipts received by a retailer from a manufacturer, wholesaler, or distributor pursuant to  
7 a written contract between the retailer and manufacturer, wholesaler, or distributor that requires  
8 the retailer to display the manufacturer, wholesaler, or distributor's product or signage in a  
9 specified manner or location. Any discount or deferred payment received by a retailer from a  
10 distributor, wholesaler, or manufacturer for purchasing a product for sale at retail does not  
11 constitute gross receipts subject to the tax imposed by this chapter.

12 Section 2. That chapter 10-46 be amended by adding thereto a NEW SECTION to read as  
13 follows:

14 There are hereby exempted from the provisions of this chapter and the tax imposed by it,  
15 gross receipts received by a retailer from a manufacturer, wholesaler, or distributor pursuant to



1 a written contract between the retailer and manufacturer, wholesaler, or distributor that requires  
2 the retailer to display the manufacturer, wholesaler, or distributor's product or signage in a  
3 specified manner or location. Any discount or deferred payment received by a retailer from a  
4 distributor, wholesaler, or manufacturer for purchasing a product for sale at retail does not  
5 constitute gross receipts subject to the tax imposed by this chapter.

# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

559I0652

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **SB 144** - 03/03/2003

Introduced by: Senators Bogue and McCracken and Representatives Smidt and Michels

1 FOR AN ACT ENTITLED, An Act to revise the rules promulgation process.

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

3 Section 1. That § 1-26-4.7 be amended to read as follows:

4 1-26-4.7. The interim rules review committee may require an agency to revert to any step  
5 in the adoption procedure provided in § 1-26-4 ~~or~~. The interim rules review committee may  
6 require an agency to hold public hearings in addition to those provided for in § 1-26-4 if, in the  
7 judgment of the committee:

8 (1) ~~There has been a significant substantive alteration of~~ The substance of the proposed  
9 rule has been significantly rewritten from the originally proposed rule which was not  
10 the result of testimony received from the public hearing; or

11 (2) The proposed ~~rules need~~ rule needs to be significantly rewritten in order to  
12 accomplish the intent of the agency.

13 If the committee requires an agency to revert to any step in the adoption procedure pursuant  
14 to this section, the time limitations set by chapter 1-26 shall also revert to the same step.

15 Section 2. That § 1-26-5 be amended to read as follows:



1 1-26-5. Prior to the adoption or amendment of an emergency rule, an agency shall publish  
2 a notice of intent to adopt an emergency rule in the manner prescribed in § 1-26-4.1 and shall  
3 serve on the person specified by subdivision 1-26-4(1), each member of the Interim Rules  
4 Review Committee, and the director:

- 5 (1) A copy of the proposed rule, which shall bear a special number to distinguish it from  
6 a permanent rule;
- 7 (2) Any publication described in § 1-26-6.6 which shall be returned to the agency upon  
8 completion of the director's review and retained by the agency; and
- 9 (3) A statement, with the reasons therefor, that the emergency procedure is necessary  
10 because of imminent peril to the public health, safety, or welfare, is necessary to  
11 prevent substantial unforeseen financial loss to state government, or is necessary  
12 because of the occurrence of an unforeseen event at a time when the adoption of a  
13 rule in response to such event by the emergency procedure is required to secure or  
14 protect the best interests of the state or its residents.

15 No agency may use the emergency rule adoption procedure for the convenience of the  
16 agency merely to avoid the consequences for failing to timely promulgate rules.

17 Section 3. That § 1-26-38 be amended to read as follows:

18 1-26-38. The Interim Rules Review Committee may, by an affirmative vote of not less than  
19 ~~three-fourths~~ a majority of the members of the committee, suspend provisional rules or rules  
20 which have not become effective. To suspend a rule, the committee shall:

- 21 (1) Give the agency which promulgated the rule at least two weeks notice of a hearing  
22 on the proposed suspension;
- 23 (2) Hold a hearing, which may be in conjunction with a regular committee meeting. At  
24 the hearing, the burden of proof that the rule is necessary and does not violate any

1 constitutional or statutory provision or the legislative intent when authority to  
2 promulgate the rule was given, is on the agency;

3 (3) File an appropriate resolution of such action with the secretary of state.

4 The suspension is effective from the date of such filing. A suspended rule shall remain  
5 suspended until July first of the year following the year in which it became, or would have  
6 become, effective, and may not be enforced during that period.

# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

400I0559

## HOUSE EDUCATION COMMITTEE ENGROSSED NO. **SB 170** - 03/04/2003

Introduced by: The Committee on Education at the request of the Governor

1 FOR AN ACT ENTITLED, An Act to increase the per student allocation in the state aid to  
2 education formula.

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

4 Section 1. That § 13-13-10.1 be amended to read as follows:

5 13-13-10.1. Terms used in this chapter mean:

- 6 (1) "Average daily membership," the average number of resident and nonresident  
7 kindergarten through twelfth grade pupils enrolled in all schools operated by the  
8 school district during the previous regular school year, minus average number of  
9 pupils for whom the district receives tuition, except pupils described in subdivision  
10 (1A) and pupils for whom tuition is being paid pursuant to § 13-28-42 and plus the  
11 average number of pupils for whom the district pays tuition;
- 12 (1A) Nonresident students who are in the care and custody of the Department of Social  
13 Services, the Unified Judicial System, the Department of Corrections, or other state  
14 agencies and are attending a public school may be included in the average daily  
15 membership of the receiving district when enrolled in the receiving district. When



1 counting a student who meets these criteria in its general enrollment average daily  
2 membership, the receiving district may begin the enrollment on the first day of  
3 attendance. The district of residence prior to the custodial transfer may not include  
4 students who meet these criteria in its general enrollment average daily membership  
5 after the student ceases to attend school in the resident district;

6 (2) "Adjusted average daily membership," calculated as follows:

7 (a) For districts with an average daily membership of two hundred or less, multiply  
8 1.2 times the average daily membership;

9 (b) For districts with an average daily membership of less than six hundred, but  
10 greater than two hundred, raise the average daily membership to the 0.8293  
11 power and multiply the result times 2.98;

12 (c) For districts with an average daily membership of six hundred or more,  
13 multiply 1.0 times their average daily membership;

14 (3) "Index factor," is the annual percentage change in the consumer price index for urban  
15 wage earners and clerical workers as computed by the Bureau of Labor Statistics of  
16 the United States Department of Labor for the year before the year immediately  
17 preceding the year of adjustment or three percent, whichever is less;

18 (4) "Per student allocation," ~~for the period January 1, 1997, to June 30, 1997, inclusive,~~  
19 ~~is \$1,675. For school fiscal year 1998, beginning on July 1, 1997, the per student~~  
20 ~~allocation shall be \$3,350 increased by the index factor~~ for school fiscal year 2004 is  
21 \$3,967.88. Each school fiscal year thereafter, the per student allocation ~~shall be~~ is the  
22 previous fiscal year's per student allocation increased by the index factor, ~~plus the~~  
23 ~~enrollment adjustment~~;

24 (5) "Local need," the per student allocation multiplied by the adjusted average daily

- 1 membership;
- 2 (6) "Local effort," the amount of ad valorem taxes generated in a school fiscal year by
- 3 applying the levies established pursuant to § 10-12-42;
- 4 (7) "General fund balance," the unreserved fund balance of the general fund, less general
- 5 fund exclusions plus, beginning with transfers made in fiscal year 2001, any transfers
- 6 out of the general fund for the previous school fiscal year;
- 7 (8) "General fund balance percentage," is a school district's general fund balance divided
- 8 by the school district's total general fund expenditures for the previous school fiscal
- 9 year, the quotient expressed as a percent;
- 10 (9) "General fund base percentage," is the general fund balance percentage as of June 30,
- 11 2000. However, the general fund base percentage can never increase and can never
- 12 be less than twenty percent;
- 13 (10) "Allowable general fund balance," the fund base percentage multiplied by the district's
- 14 general fund expenditures in the previous school fiscal year;
- 15 (11) "Imputed interest rate," the average prime rate for the preceding fiscal year minus 2.5
- 16 percentage points;
- 17 (12) "General fund exclusions," revenue a school district has received from the imposition
- 18 of the excess tax levy pursuant to § 10-12-43; revenue a school district has received
- 19 from gifts, contributions, grants, or donations; revenue a school district has received
- 20 under the provisions of §§ 13-6-92 to 13-6-96, inclusive; and any revenue in the
- 21 general fund set aside for a noninsurable judgment.

# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

670I0670

HOUSE HEALTH AND HUMAN SERVICES

COMMITTEE ENGROSSED NO. **SB 174** - 03/04/2003

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

Introduced by: Senators Sutton (Dan), Diedrich (Larry), Moore, and Olson (Ed) and Representatives Juhnke, Bartling, Olson (Mel), and Peterson (Bill)

1 FOR AN ACT ENTITLED, An Act to establish a comprehensive health association to provide  
2 health insurance coverage to eligible persons.

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

4 Section 1. There shall be established a comprehensive health association to provide health  
5 insurance coverage to eligible persons.



# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

565I0597

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **SB 177** - 03/03/2003

Introduced by: Senators de Hueck and Knudson and Representatives Garnos, Craddock, and Van Gerpen

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to contested cases under  
2 the Administrative Procedures Act and the Office of Hearing Examiners.

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

4 Section 1. That § 1-26-18.3 be amended to read as follows:

5 1-26-18.3. In a any contested case, if the amount in controversy exceeds two thousand five  
6 hundred dollars or if a property right may be terminated, any party to the contested case may  
7 require the agency to use the Office of Hearing Examiners by giving notice of the request no later  
8 than ten days ~~prior to the hearing. Except as otherwise provided for cases arising under Title 61,~~  
9 ~~if such requesting party does not prevail, the Office of Hearing Examiners shall require the~~  
10 ~~requesting party to pay the cost of the services rendered in hearing the contested case~~ after  
11 service of a notice of hearing issued pursuant to § 1-26-17.

12 Section 2. That § 1-26D-10 be amended to read as follows:

13 1-26D-10. Within ten days after written notification to the parties of the appointment of a  
14 hearing examiner in any contested case, any party to that contested case may file an affidavit  
15 requesting the appointment of another hearing examiner. The chief hearing examiner shall then



1 appoint another hearing examiner to hear that contested case. Each party may file only one such  
2 affidavit in any contested case.

3 Section 3. That § 1-26-17 be amended to read as follows:

4 1-26-17. The notice shall include:

- 5 (1) A statement of the time, place, and nature of the hearing;
- 6 (2) A statement of the legal authority and jurisdiction under which the hearing is to be  
7 held;
- 8 (3) A reference to the particular sections of the statutes and rules involved;
- 9 (4) A short and plain statement of the matters asserted. If the agency or other party is  
10 unable to state the matters in detail at the time the notice is served, the initial notice  
11 may be limited to a statement of the issues involved. Thereafter upon application a  
12 more definite and detailed statement shall be furnished;
- 13 (5) A statement of any action authorized by law, which may affect the parties, as a result  
14 of any decision made at the hearing, whether it be the revocation of a license, the  
15 assessment of a fine or other effect;
- 16 (6) A statement that the hearing is an adversary proceeding and that a party has the right  
17 at the hearing, to be present, to be represented by a lawyer, and that these and other  
18 due process rights will be forfeited if they are not exercised at the hearing;
- 19 (7) A statement that if the amount in controversy exceeds two thousand five hundred  
20 dollars or if a property right may be terminated, any party to the contested case may  
21 require the agency to use the Office of Hearing Examiners by giving notice of the  
22 request to the agency no later than ten days after service of a notice of hearing issued  
23 pursuant to § 1-26-17;
- 24 (8) A statement that the decision based on the hearing may be appealed to the circuit

1 court and the State Supreme Court as provided by law.

# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

743I0576

## HOUSE ENGROSSED NO. **SB 188** - 03/04/2003

Introduced by: Senators Diedrich (Larry), Abdallah, Brown, Duxbury, Jaspers, McCracken, Moore, Olson (Ed), Schoenbeck, Sutton (Duane), and Symens and Representatives Dykstra, Begalka, Burg, Hargens, Konold, Peterson (Jim), Sebert, Solum, and Williamson

1 FOR AN ACT ENTITLED, An Act to provide a credit against certain taxes paid by railroads  
2 for the replacement and repair of rail lines and to revise certain provisions regarding the  
3 distribution of the assessed value of a railroad.

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

5 Section 1. That chapter 10-28 be amended by adding thereto a NEW SECTION to read as  
6 follows:

7 Any publicly operated railroad or railway corporation operating over rail lines located within  
8 this state may claim a credit against the tax levied on such rail lines for amounts that the railroad  
9 or railway corporation has certified as having been expended in the replacement and repair of  
10 such rail lines. Only those expenses of a capital nature may be certified as an expense eligible for  
11 a credit pursuant to this section. The certification required by this section shall be on forms  
12 provided by the Department of Revenue. The labor and material expenses certified pursuant to  
13 this section shall be itemized separately. The credit provided in this section shall be applied  
14 proportionally across the railroad's entire mainline within this state. The credit shall be applied



1 to tax liability over a three-year period in an amount equal to thirty-three and one-third percent  
2 the first year following certification; thirty-three and one-third percent of such an amount shall  
3 carry forward into the second year following certification; and thirty-three and one-third percent  
4 shall carry forward into the third year following certification. Each year's carryover shall be  
5 accumulated as a tax credit with other years' annual tax credits. No credit may be given for the  
6 repair or replacement of railway line necessitated by washout, fire, or train derailment. If any rail  
7 line goes over ten million gross ton miles per mile annually in a calendar year, the rail line may  
8 not receive a credit pursuant to this section in the following calendar year.

9 Section 2. That § 10-28-16 be amended to read as follows:

10 10-28-16. The Department of Revenue shall, on or before the fourth Monday in August, each  
11 year, transmit to the county auditor of each county through which any railroad runs, a statement  
12 showing the length of main track, of main line or lines, and the branches thereof and sidetracks  
13 within such county, and the assessed value based on a statewide formula that weights traffic (ton  
14 miles) ~~thirty-three and one-third~~ fifty percent and miles of track in the county by ~~sixty-six and~~  
15 ~~two-thirds~~ fifty percent. The county auditor shall then distribute the value to each taxing district  
16 where the line runs on a per mile basis within the county.

# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

507I0569

## HOUSE ENGROSSED NO. **SB 213** - 03/05/2003

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

Introduced by: Senator Koskan and Representative Teupel

1 FOR AN ACT ENTITLED, An Act to prohibit hunting on certain school and public lands  
2 containing unharvested crops.

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

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

6 No person may engage in hunting in any standing, unharvested crops on any school and  
7 public lands, unless the crop is designated for conservation or wildlife habitat.



# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

400I0757

## HOUSE ENGROSSED NO. **SB 220** - 03/05/2003

Introduced by: The Committee on Education at the request of the Governor

1 FOR AN ACT ENTITLED, An Act to establish the Dakota Corps scholarship program, to  
2 provide for its funding, to make an appropriation therefor, and to declare an emergency.

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

4 Section 1. The Dakota Corps scholarship program is hereby established within the  
5 Department of Education and Cultural Affairs. The purpose of the Dakota Corps scholarship is  
6 to encourage South Dakota's high school graduates to remain in South Dakota upon completion  
7 of their postsecondary education and to contribute to South Dakota and its citizens.

8 Section 2. Terms used in this Act mean:

- 9 (1) "Department," the Department of Education and Cultural Affairs;
- 10 (2) "Secretary," the secretary of the Department of Education and Cultural Affairs;
- 11 (3) "Eligible institution," a public university, college, or technical school or a participating  
12 private university, college, or technical school that is accredited by the North Central  
13 Association of Colleges and Schools and provides instruction from a campus located  
14 in South Dakota;
- 15 (4) "Participating private university, college, or technical school," a nonpublic institution  
16 that is accredited by the North Central Association of Colleges and Schools, provides



1 instruction from a campus located in South Dakota, and agrees to waive tuition and  
2 fees, provide scholarships, or provide other financial grants to the eligible student in  
3 an amount such that the tuition waiver, scholarships, and other financial grants are at  
4 least equal to the difference between the institution's tuition and fees and the Dakota  
5 Corps tuition award;

6 (5) "Area of critical need," an occupation within South Dakota for certain employers in  
7 certain geographical areas as specified by rules promulgated by the department;

8 (6) "Dakota Corps tuition award," an amount not to exceed the maximum tuition and fees  
9 for sixteen credit hours at an institution of higher education under the control of the  
10 South Dakota Board of Regents.

11 Section 3. In order to be eligible for a Dakota Corps scholarship a person shall:

12 (1) Have graduated from an accredited South Dakota high school;

13 (2) Apply for a Dakota Corps scholarship within one year of graduation from high school  
14 or within one year of the person's release from active duty with an active component  
15 of the armed forces if the release is within five years of the person's graduation from  
16 high school;

17 (3) Have a composite score of 24 or greater on the test administered by American  
18 College Testing Program and have graduated from high school with a grade point  
19 average of 2.8 or greater on a 4.0 scale;

20 (4) Agree in writing to stay in South Dakota and work in an area of critical need for a  
21 period of five years following graduation from an eligible institution; and

22 (5) Enroll in or be accepted for enrollment by an eligible institution for a course of study  
23 leading to a baccalaureate or technical degree from an eligible institution.

24 Section 4. In order to maintain eligibility for a Dakota Corps scholarship a person shall:

- 1 (1) Maintain a 2.8 grade point average on a 4.0 scale and complete at least thirteen credit  
2 hours of instruction per semester;
- 3 (2) Attend an eligible institution for eight consecutive spring and fall terms or until the  
4 person has earned a baccalaureate or technical degree; and
- 5 (3) Completed fewer than one hundred twenty-eight credit hours of instruction.

6 Section 5. The secretary may award Dakota Corps scholarships only to the extent that funds  
7 are available to provide scholarships. If the amount of money in the Dakota Corps scholarship  
8 fund is insufficient to provide a Dakota Corps scholarship to all eligible applicants, the secretary  
9 shall consider a person's grade point average, composite score on the test administered by the  
10 American College Testing Program, and financial need to award a Dakota Corps scholarship.

11 Section 6. If a person has been awarded a Dakota Corps scholarship, the department shall  
12 pay the person's tuition and fees not to exceed the Dakota Corps tuition award on behalf of the  
13 person to the eligible institution at the time that tuition and fees are normally paid.

14 Section 7. A person who has received a Dakota Corps scholarship is not required to repay  
15 any part of the scholarship if within six months of earning a baccalaureate or technical degree the  
16 person is continuously employed in South Dakota for a period of sixty consecutive months in an  
17 area of critical need.

18 Section 8. If a person who has received a Dakota Corps scholarship does not maintain  
19 eligibility as specified in section 4 of this Act, the person shall reimburse the state the amount of  
20 Dakota Corps scholarship paid on behalf of the person, excluding any tuition waivers,  
21 scholarships, or other financial grants received pursuant to this Act, according to a repayment  
22 schedule set by the department according to rules promulgated pursuant to chapter 1-26.

23 Section 9. If a person who has received a Dakota Corps scholarship does not meet the  
24 requirement in section 8 of this Act, the person shall reimburse the state the amount of Dakota

1 Corps scholarship paid on behalf of the person, excluding any tuition waivers, scholarships, or  
2 other financial grants received pursuant to this Act, to the department according to a repayment  
3 schedule set by the department according to rules promulgated pursuant to chapter 1-26. The  
4 amount of repayment shall be based on the ratio of sixty months minus the number of months a  
5 person was continuously employed in an area of critical need to sixty months.

6 Section 10. If a person who has received a Dakota Corps scholarship is unable to maintain  
7 eligibility or remain employed in an area of critical need for sixty consecutive months due to  
8 factors outside the control of the person, the secretary may waive or delay the repayment  
9 provisions of this Act.

10 Section 11. A person who has received a Dakota Corps scholarship shall annually report to  
11 the department the person's academic and occupational status on forms prescribed by the  
12 department.

13 Section 12. There is hereby created in the state treasury a separate fund known as the Dakota  
14 Corps scholarship fund. Money from any source for the purpose of providing to scholarships  
15 pursuant to this Act shall be deposited into the Dakota Corps scholarship fund. Any money  
16 repaid pursuant to section 9 or 10 of this Act shall be deposited into the Dakota Corps  
17 scholarship fund.

18 Section 13. There is hereby continuously appropriated to the department any money in the  
19 Dakota Corps scholarship fund for the purpose of providing scholarships pursuant to this Act.

20 Section 14. The secretary shall approve vouchers and the state auditor shall draw warrants  
21 to pay expenditures authorized by this Act.

22 Section 15. The department may promulgate rules, pursuant to chapter 1-26, to define  
23 occupations and geographical areas as areas of critical need, determine the amount of the Dakota  
24 Corps tuition award, establish procedures for the awarding and acceptance of Dakota Corps

1 scholarships, monitor the academic and occupational status of persons who have received a  
2 Dakota Corps scholarship, establish financial need criteria, and establish repayment schedules.

3 Section 16. If any clause or other portion of this Act is held invalid, that decision does not  
4 affect the validity of the remaining portions of this Act. It is hereby declared that all such  
5 remaining portions of this Act are severable, and that the Legislature would have enacted the  
6 remaining portions if the portions that may be held to be invalid had not been included in this  
7 Act.

8 Section 17. Whereas, this Act is necessary for the support of the state government and its  
9 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full  
10 force and effect from and after its passage and approval.