

AN ACT

ENTITLED, An Act to authorize agreements to indemnify persons who donate property for publicly beneficial uses and to declare an emergency.

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

Section 1. That chapter 5-24 be amended by adding thereto a NEW SECTION to read as follows:

The Governor may enter into agreements with any person or governmental entity or agency who donates real or personal property to the Science and Technology Authority for public use or benefit, whereby the state agrees to indemnify, defend, and hold harmless such person upon the terms and conditions set forth in this Act. This Act applies only if the donation has been affirmatively accepted by the Science and Technology Authority, and only if the Governor finds that the donation was for public use or benefit and concludes that an agreement to indemnify is in the best interests of the state.

Section 2. That chapter 5-24 be amended by adding thereto a NEW SECTION to read as follows:

The indemnification provided for in section 1 of this Act may include indemnification of the donor against liability to any person, governmental entity or agency, or the United States for injuries, costs, expenses, injunctive relief, reclamation, damages (including damages to natural resources or the environment) or any other claim (including claims for indemnification or contribution, claims by third parties for death, personal injury, illness, or loss of or damage to property, or claims for economic loss), under any law (including an administrative rule) for any claim arising out of or in connection with any contamination, pollution, or other condition or use of the property, regardless of when a condition giving rise to the liability originated or was discovered. The state's obligation to indemnify shall be secondary to that of any person who may be obligated contractually or otherwise to indemnify the donor.

Section 3. That chapter 5-24 be amended by adding thereto a NEW SECTION to read as follows:

For the purposes of paying any claim under section 2 of this Act, the state may purchase or otherwise provide for insurance. The state's obligation to indemnify and the waiver of sovereign immunity provided for in this Act is limited to the extent coverage is afforded under such insurance.

Section 4. That chapter 5-24 be amended by adding thereto a NEW SECTION to read as follows:

The indemnification provided for in this Act may only be enforced in the circuit court in Hughes County. For limited purposes of such enforcement, the state waives any claim of sovereign immunity and consents to suit and to the enforcement of any judgment that may be rendered against the state as the result of a claim filed under any agreement entered into under this Act.

Section 5. This Act is repealed on July 1, 2007. However, the repeal does not in any case affect the validity of any agreement entered into pursuant to section 1 of this Act prior to July 1, 2007.

Section 6. Whereas, this Act is necessary for the support of the state government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

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I certify that the attached Act
originated in the

SENATE as Bill No. 214

Secretary of the Senate
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President of the Senate

Attest:

Secretary of the Senate

Speaker of the House

Attest:

Chief Clerk

Senate Bill No. 214
File No. _____
Chapter No. _____

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Received at this Executive Office
this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor
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The attached Act is hereby
approved this _____ day of
_____, A.D., 20____

Governor

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STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____, 20____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State