

State of South Dakota

EIGHTIETH SESSION
LEGISLATIVE ASSEMBLY, 2005

571L0553

HOUSE TAXATION COMMITTEE ENGROSSED NO.

HB 1122 - 02/08/2005

Introduced by: Representatives Wick, Brunner, Cutler, Davis, Deadrick, Dykstra, Faehn, Frost, Garnos, Gassman, Glover, Hackl, Haley, Halverson, Hargens, Heineman, Jensen, Koistinen, Lange, Michels, Murschel, O'Brien, Rave, Schafer, Sebert, Tornow, Turbiville, Weems, and Willadsen and Senators Kelly, Abdallah, Bartling, Bogue, Broderick, Duenwald, Duniphan, Earley, Gant, Hansen (Tom), Hanson (Gary), Lintz, McCracken, Moore, Nesselhuf, Olson (Ed), Peterson (Jim), Schoenbeck, and Sutton (Dan)

1 FOR AN ACT ENTITLED, An Act to clarify that agents for property owners may make certain
2 deductions from gross receipts.

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

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

6 In determining the amount of tax due under this chapter, an agent for one or more property
7 owners may deduct from gross receipts amounts that represent charges for items purchased by
8 the agent on behalf of any property owner. The sale of property or service by the agent to any
9 property owner is not a sale for resale if this deduction is taken. This deduction, which is limited
10 to the agent's cost of such items, may be taken only if the amount to be deducted represents an
11 expense incurred for a particular property owner or group of property owners and the amount
12 is itemized and separately billed as a reimbursement to the agent. The agent may also deduct



1 from its taxable gross receipts its actual disbursements for wages, salaries, payroll taxes, payroll
2 deductions, workers' compensation costs, insurance premiums, welfare benefits, retirement
3 benefits, or other employee benefits of employees of the agent performing services for a
4 particular property owner or group of property owners if the amount is itemized and separately
5 billed as a reimbursement to the agent. This section applies only to an agent performing
6 management services for property owners, including hotels and restaurants, and does not permit
7 a deduction for any markup by the agent on the cost of the items purchased by the agent or the
8 agent's employee costs. The provisions of this section apply in determining the amount of tax
9 due before and after the effective date of this section.

State of South Dakota

EIGHTIETH SESSION
LEGISLATIVE ASSEMBLY, 2005

645L0617

HOUSE TAXATION COMMITTEE ENGROSSED NO.

HB 1142 - 02/08/2005

Introduced by: Representatives Sebert, Elliott, Frost, Fryslie, Jensen, Sigdestad, Van Etten, Vehle, and Willadsen and Senators Olson (Ed), Abdallah, and Knudson

1 FOR AN ACT ENTITLED, An Act to provide sales and use tax refunds to certain fabricators.

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

3 Section 1. A contractor or subcontractor licensed pursuant to chapter 10-46A or 10-46B may
4 apply for a refund of South Dakota sales and use tax paid by such contractor if:

5 (1) The sales and use tax subject to the refund request was paid by the contractor or
6 subcontractor requesting the refund for the use of tangible personal property;

7 (2) The tangible personal property upon which the sales and use tax was paid was
8 purchased by the contractor or subcontractor requesting the refund;

9 (3) The tangible personal property upon which the sales and use tax was paid was
10 fabricated by the contractor or subcontractor in South Dakota;

11 (4) The fabricated tangible personal property was used outside of South Dakota by the
12 contractor or subcontractor in the performance of a contract;

13 (5) The fabricated tangible personal property is not returned to South Dakota; and

14 (6) The fabricated tangible personal property is exempt from sales or use tax in the state
15 where the contract is performed.



1 Section 2. Any claim for refund shall be submitted on forms prescribed by the secretary of
2 the Department of Revenue and Regulation and shall be supported by such documentation as
3 the secretary may require. The secretary may deny any claim if the claimant has failed to provide
4 the information or documentation requested or considered necessary by the secretary to
5 determine the validity of the claim.

6 Section 3. Any person requesting a refund pursuant to this Act shall submit a request for a
7 refund on a form provided by the Department of Revenue and Regulation. The request shall be
8 submitted pursuant to § 10-59-19. No interest may be paid on the refund amount.

9 Section 4. If any claim has been fraudulently presented or supported as to any item in the
10 claim, or if the claimant fails to meet all the conditions of section 1 of this Act, then the claim
11 may be rejected in its entirety; and all sums previously refunded to the claimant constitutes a
12 debt to the state and a lien in favor of the state upon all property and rights to property whether
13 real or personal belonging to the claimant and may be recovered in an action of debt.

14 Section 5. Any person aggrieved by the denial in whole or in part of a refund claimed under
15 this Act, may within thirty days after service of the notice of such denial by the secretary of the
16 Department of Revenue and Regulation, demand and is entitled to a hearing, upon notice, before
17 the secretary. The hearing shall be conducted pursuant to chapter 1-26.

18 Section 6. The secretary of the Department of Revenue and Regulation shall promulgate
19 rules, pursuant to chapter 1-26, concerning the procedures for filing refund claims and the
20 requirements necessary to qualify for a refund.

State of South Dakota

EIGHTIETH SESSION
LEGISLATIVE ASSEMBLY, 2005

547L0705

HOUSE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **HB 1154** - 02/08/2005

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

Introduced by: Representatives Hanks, Brunner, Elliott, Hennies, Kraus, and McLaughlin
and Senators McCracken and Nesselhuf

1 FOR AN ACT ENTITLED, An Act to limit municipal annexation near regional airport
2 authorities.

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

4 Section 1. That § 9-4-12 be amended to read as follows:

5 9-4-12. No other municipality may annex any territory within one and one-quarter miles of
6 any parcel of land operated as a municipal airport by an airport board organized pursuant to
7 ~~chapter 50-6~~ chapters 50-6 and 50-6A. However, if the governing body of the airport-operating
8 municipality consents, by resolution, to such a proposed annexation by another municipality,
9 the provisions of this section do not apply to the extent of the waiver provided in the consent
10 resolution of the airport-operating municipality.



State of South Dakota

EIGHTIETH SESSION
LEGISLATIVE ASSEMBLY, 2005

832L0579

HOUSE COMMERCE COMMITTEE ENGROSSED NO.

HB 1160 - 02/08/2005

Introduced by: Representatives Murschel, Boomgarden, Cutler, Krebs, Kroger, Schafer, Sebert, and Street and Senators Broderick, Abdallah, Kelly, Koetzle, and Sutton (Dan)

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to franchises and cable
2 services.

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

4 Section 1. That chapter 9-35 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Terms used in this Act mean:

7 (1) "Cable operator," any person who provides cable service over a cable system;

8 (2) "Cable service," the one-way transmission to subscribers of video programming or
9 other programming service and the subscriber interaction, if any, which is required
10 for the selection or use of such video programming or other programming service;

11 (3) "Cable system," a facility consisting of a set of closed transmission paths and
12 associated signal generation, reception, and control equipment that is designed to
13 provide cable service to multiple subscribers within a community. The term does not
14 include a facility that serves subscribers without using the public right-of-way; a



1 facility of a telecommunications company that provides telecommunications service
2 as defined and regulated by chapter 49-31, except to the extent that the facility is used
3 to transmit video programming directly to subscribers, unless the extent of such use
4 is solely to provide interactive on-demand services; or an open video system as
5 defined and operated consistent with federal law;

6 (4) "Franchise," an authorization, established by ordinance, issued by a franchising
7 authority, which authorizes the construction and operation of a cable system;

8 (5) "Franchising authority," a municipality;

9 (6) "Other programming service," information that a cable operator makes available to
10 all subscribers generally;

11 (7) "Public, educational, or governmental access facilities," channel capacity designated
12 for public, educational, and governmental use and the facilities and equipment for the
13 use of such channel capacity; and

14 (8) "Video programming," programming provided by, or generally considered
15 comparable to programming provided by, a television broadcast station.

16 Section 2. That chapter 9-35 be amended by adding thereto a NEW SECTION to read as
17 follows:

18 A franchising authority may require a franchise of any cable operator for the operation of
19 a cable system within its jurisdiction. The exercise of such authority shall be pursuant to an
20 ordinance detailing the basic requirements for a franchise and the terms and conditions for any
21 other contractual arrangement thereafter deemed appropriate and consistent with this Act and
22 federal law.

23 Section 3. That chapter 9-35 be amended by adding thereto a NEW SECTION to read as
24 follows:

1 A franchising authority may grant one or more additional franchises to other cable operators
2 under terms that are not substantially more favorable than that which the cable operator
3 designated by section 2 of this Act is required to meet. The terms that may not be substantially
4 more favorable are with regard to right-of-way access; public, educational, or governmental
5 access facilities requirements; and franchise fees.

State of South Dakota

EIGHTIETH SESSION
LEGISLATIVE ASSEMBLY, 2005

336L0767

HOUSE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **HB 1239** - 02/08/2005

Introduced by: Representatives Hargens and Haley and Senator Moore

1 FOR AN ACT ENTITLED, An Act to revise the method for setting the fees that may be
2 received by a county coroner.

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

4 Section 1. That § 7-14-1 be amended to read as follows:

5 7-14-1. The coroner shall receive ~~the following~~ fees and expenses:

6 ~~(1) For a view of each body and examination of the circumstances surrounding the death,~~
7 ~~fifty-eight dollars;~~

8 ~~(2) The coroner shall receive the same amount per mile traveled in the course of his~~
9 ~~duties as other county officials~~ as set by the board of county commissioners.



State of South Dakota

EIGHTIETH SESSION
LEGISLATIVE ASSEMBLY, 2005

299L0085

HOUSE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **HB 1253** - 02/08/2005

Introduced by: Representatives Garnos and Elliott and Senator Olson (Ed)

1 FOR AN ACT ENTITLED, An Act to allow for the establishment of a group health insurance
2 plan for political subdivision employees.

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

4 Section 1. That chapter 3-12A be amended by adding thereto a NEW SECTION to read as
5 follows:

6 The Bureau of Personnel may establish a group health insurance plan, a group dental
7 insurance plan, or both, for employees of any political subdivision. The plan may provide for
8 group health and dental insurance against the financial cost of hospital, surgical, and medical
9 treatment and care, and such other coverage or benefits, including a group life insurance plan
10 and a group disability income insurance plan, as may be deemed appropriate and desirable by
11 the commissioner. The commissioner may design a cafeteria-style benefit plan which allows an
12 employee of any political subdivision to choose the employee's own benefits or levels of
13 coverage.

14 The Bureau of Personnel may promulgate rules pursuant to chapter 1-26 to establish uniform
15 procedures for the administration of such a plan and to provide for uniform application of the



1 plan. The rules may be adopted in the following areas:

2 (1) Participation in the plan by employees, retired employees, and dependents;

3 (2) Procedures for election of coverage;

4 (3) Effective dates of coverage where not specified by statute;

5 (4) Termination of coverage;

6 (5) Changes in dependent coverage;

7 (6) Collection of premiums;

8 (7) The procedure and conditions for membership for a political subdivision to elect to
9 join the group health insurance plan; and

10 (8) A method to allocate the cost of claims and administrative costs back to a
11 participating political subdivision.

State of South Dakota

EIGHTIETH
LEGISLATIVE ASSEMBLY, 2005

400L0230

SENATE JUDICIARY COMMITTEE ENGROSSED NO. SB 12 - 01/21/2005

Introduced by: The Committee on Judiciary at the request of the Department of Social
Services

1 FOR AN ACT ENTITLED, An Act to authorize a parent to appear telephonically for a hearing
2 to voluntarily terminate parental rights.

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

4 Section 1. That § 25-5A-14 be amended to read as follows:

5 25-5A-14. The personal presence of one parent at the hearing is required for jurisdictional
6 purposes. However, ~~any~~ for good cause shown, and upon notice to any other person or
7 authorized agency whose consent is required pursuant to § 25-5A-6, the court may permit the
8 parent to appear telephonically if the parent does so in the physical presence of a person
9 designated by the court to monitor the parent's appearance. Any other person whose consent is
10 necessary; may appear by filing with the court a power of attorney. If the Department of Social
11 Services or a licensed child placement agency has custody of a child by written agreement of
12 a parent with power of attorney to consent, the secretary or an authorized agent may appear and
13 consent. Notwithstanding the foregoing provisions of this section, due regard shall be given to
14 the Indian Child Welfare Act (25 U.S.C. 1901 to 1963, inclusive,) as in effect on January 1,
15 2005, if applicable.



State of South Dakota

EIGHTIETH
LEGISLATIVE ASSEMBLY, 2005

400L0314

HOUSE HEALTH AND HUMAN SERVICES
COMMITTEE ENGROSSED NO. **SB 41** - 02/07/2005

Introduced by: The Committee on Health and Human Services at the request of the
Department of Health

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding access to vital
2 records.

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

4 Section 1. That § 34-25-1.1 be amended by adding thereto a NEW SUBDIVISION to read
5 as follows:

6 "Authorized representative," an attorney, physician, funeral director, or other designated
7 agent acting on behalf of the family.

8 Section 2. That § 34-25-8 be amended to read as follows:

9 34-25-8. The birth of every child born in this state shall be registered as provided in this
10 chapter. Within seven days after the date of each live birth, there shall be filed with the
11 department by electronic means if a facility has such capabilities, or otherwise if electronic
12 means are not available, a certificate of such birth, ~~which.~~ The certificate shall be upon the form
13 prescribed by the department. For certificates of birth filed after seven days, but within one year
14 from the date of birth, the department may, by rules promulgated pursuant to chapter 1-26,
15 require additional evidence in support of the facts of birth.



1 ~~Certified~~ Informational copies of birth records shall be available to any person who can
2 identify the birth record by providing the name of the person on the birth record, the date of
3 birth, the mother's maiden name, or additional information required to locate the record.
4 Nothing in this section prohibits the release of information contained on a birth record which
5 would not identify any person named in the record.

6 If one hundred years have elapsed after the date of birth, the records of the birth in the
7 custody of the department shall become available to the public without restriction. The
8 department shall promulgate rules, pursuant to chapter 1-26, to provide for the continued
9 safekeeping of these records.

10 Section 3. That § 34-25-52 be amended to read as follows:

11 ~~34-25-52. The Department of Health shall upon request supply to any applicant a certified~~
12 ~~copy of the record of any birth, death, fetal death, marriage, or divorce registered under the~~
13 ~~provisions of this chapter, for the making and certification of which he shall be entitled to a fee~~
14 ~~based upon administrative cost as established by the department pursuant to chapter 1-26 to be~~
15 ~~paid by the applicant. Information in vital records indicating that a birth occurred out of wedlock~~
16 ~~shall not be disclosed except as provided by regulation or upon order of a court of competent~~
17 ~~jurisdiction. Any record or a certified copy thereof shall be prima facie evidence in all of the~~
18 ~~courts of this state of the facts therein stated~~ The department or authorized local registrars shall,
19 upon receipt of an application, issue a certified copy of a vital record to the registrant or the
20 registrant's spouse, children, parents, guardian, next of kin, or authorized representative. The
21 department may authorize others to obtain certified copies in response to a demonstration that
22 the record is needed for the determination or protection of a personal or property right. The
23 department or authorized local registrars shall upon receipt of an application, issue
24 informational copies to any applicant of any vital record. The department or authorized local

1 registrar may withhold the immediate issuance of any certified copy for a period of no longer
2 than three days. The department shall be entitled to a fee based upon administrative cost as
3 established by the department pursuant to chapter 1-26 for each search of the files and records.
4 The fee shall be paid in advance by the applicant and shall not be in addition to the fee
5 hereinbefore provided for the making and certification of the record but shall be applied in
6 payment thereof if the record is found.

7 Section 4. That chapter 34-25 be amended by adding thereto a NEW SECTION to read as
8 follows:

9 All forms and procedures used in the issuance of certified and informational copies of vital
10 records shall be uniform and shall be provided or approved by the state registrar. The
11 department shall promulgate rules pursuant to chapter 1-26 to determine application
12 requirements for a certified and an informational copy of a vital record, acceptable proof of
13 identity, and the features required in a certified or informational copy.

14 Section 5. That chapter 34-25 be amended by adding thereto a NEW SECTION to read as
15 follows:

16 Nothing in this chapter may be construed to permit disclosure of information contained in
17 the "Information for Medical and Health Use Only" section of the birth certificate or the
18 "Information for Statistical Purposes Only" section of the certificate of marriage or certificate
19 of divorce unless specifically authorized by the department for statistical or research purposes.
20 Such data is not subject to subpoena or court order and is not admissible before any court,
21 tribunal, or judicial body.

22 Section 6. That chapter 34-25 be amended by adding thereto a NEW SECTION to read as
23 follows:

24 To protect the integrity of vital records, ensure their proper use, and to ensure the efficient

1 and proper administration of the vital records system, no employee of the state vital records
2 office, local registrar, or deputy registrar may permit inspection of any vital record or disclose
3 information contained in any vital record or issue a copy of all or part of any such record unless
4 authorized by this chapter or a court of competent jurisdiction.

5 Section 7. That § 34-25-57 be amended to read as follows:

6 34-25-57. No person, officer, agent, or employee of any other person or of any corporation
7 or partnership may:

- 8 (1) Inter, cremate, or otherwise finally dispose of a dead body of a human being or
9 permit the same to be done or remove the body from the state without authority of
10 a burial or removal permit;
- 11 (2) Refuse or fail to furnish any information in such person's possession or furnish false
12 information affecting any certificate or record required by this chapter;
- 13 (3) Intentionally falsify any certificate of birth, death, or burial or removal permit or any
14 record required by this chapter;
- 15 (4) Being required by this chapter to fill out a certificate of birth or death and file the
16 certificate with the local registrar or deliver it upon request to any person charged
17 with the duty of filing the certificate, fail, neglect, or refuse to perform;
- 18 (5) Being an employee of the state vital records office, a local registrar or deputy
19 registrar, intentionally fail, neglect, or refuse to perform the duty as required by this
20 chapter or by the rules adopted by the secretary of health or by the instructions and
21 directions of the department;
- 22 (6) Intentionally make, counterfeit, alter, amend, or mutilate any certificate, record, or
23 report required by this chapter or a certified copy of the certificate, record, or report
24 for the purpose of deception;

1 (7) Obtain, possess, use, sell, or furnish to another, or attempt to obtain, possess, use,
2 sell, or furnish to another, any certificate, record, or report, or certified copy thereof,
3 required by this chapter, whether altered in any manner or not, for any purpose of
4 deception; or

5 (8) Possess any certificate, record, or report, or copy thereof, required by this chapter,
6 knowing that the certificate, record, or report, or copy thereof, was stolen or
7 otherwise obtained unlawfully.

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

9 Section 8. That chapter 34-25 be amended by adding thereto a NEW SECTION to read as
10 follows:

11 No employee of the state vital records office, local registrar, or deputy registrar may be held
12 personally liable for any unintentional issuance of any certified copy of any vital record
13 fraudulently obtained.

State of South Dakota

EIGHTIETH SESSION
LEGISLATIVE ASSEMBLY, 2005

249L0142

SENATE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **SB 86** - 01/26/2005

Introduced by: Senators Duenwald, Broderick, Gray, Koskan, and Olson (Ed) and
Representatives Rounds, Davis, Hennies, Jensen, and Murschel

1 FOR AN ACT ENTITLED, An Act to revise the compensation for deputy coroners.

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

3 Section 1. That § 7-14-9 be amended to read as follows:

4 7-14-9. The coroner may appoint one or more deputies and ~~such deputies~~ each deputy shall
5 receive ~~the same~~ fees and expenses as ~~the coroner, but~~ determined at the discretion of the board
6 of the county commissioners. The deputy coroner may not receive a salary.



State of South Dakota

EIGHTIETH SESSION
LEGISLATIVE ASSEMBLY, 2005

716L0581

SENATE ENGROSSED NO. **SB 103** - 02/04/2005

Introduced by: Senators Broderick, Gray, Moore, Nesselhuf, and Sutton (Duane) and Representatives Fryslie, Faehn, Haley, Pederson (Gordon), Rounds, and Willadsen

1 FOR AN ACT ENTITLED, An Act to authorize the funding of public transportation from the
2 state highway fund and to repeal certain obsolete provisions regarding the state highway
3 fund.

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

5 Section 1. That § 10-12-6 be repealed.

6 ~~— 10-12-6. The secretary of revenue and regulation may levy annually a sufficient tax, not to~~
7 ~~exceed one-tenth of one dollar per thousand dollars taxable valuation for any year upon each~~
8 ~~dollar of the taxable valuation of all taxable property in this state, to provide a special fund in~~
9 ~~the state treasury to be known as the state highway fund. All money received by the state~~
10 ~~treasurer pursuant to such levy shall be placed in such fund, to be used and expended under the~~
11 ~~direction of the Department of Transportation, for the purpose of constructing and maintaining~~
12 ~~highways and bridges in this state and paying the salaries and expenses of the Department of~~
13 ~~Transportation, as the same may be appropriated for these purposes by the Legislature.~~

14 Section 2. That chapter 31-2 be amended by adding thereto a NEW SECTION to read as
15 follows:



1 There is created a special fund in the state treasury to be known as the state highway fund.
2 All moneys in the fund shall be used and expended under the direction of the Department of
3 Transportation, for the purpose of constructing and maintaining highways and bridges in this
4 state, paying the salaries and expenses of the Department of Transportation, and funding public
5 transportation, as the moneys may be appropriated for these purposes by the Legislature.

6 Section 3. That § 31-2-14.2 be amended to read as follows:

7 31-2-14.2. All moneys in the state highway fund shall be used only for the construction,
8 maintenance, and supervision of highways and bridges in this state ~~and~~, for the administrative
9 costs necessary to perform such duties, and for the funding of public transportation.