

State of South Dakota

EIGHTIETH
LEGISLATIVE ASSEMBLY, 2005

400L0233

HOUSE TAXATION COMMITTEE ENGROSSED NO.

HB 1033 - 01/18/2005

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

1 FOR AN ACT ENTITLED, An Act to establish certain provisions with regard to the past tax
2 liability of sellers who agree to collect sales and use tax under the Streamlined Sales and
3 Use Tax Agreement.

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

5 Section 1. No seller who registers to pay or to collect and remit applicable South Dakota
6 sales or use tax in accordance with the terms of the Streamlined Sales and Use Tax Agreement
7 is liable for any uncollected or unpaid sales or use tax, penalty or interest, unless the seller was
8 registered in this state during the twelve-month period preceding the date the state is found in
9 compliance with the Streamlined Sales and Use Tax Agreement.

10 Section 2. The provisions of section 1 of this Act preclude assessment for any uncollected
11 or unpaid sales or use tax, penalty, or interest for sales made during the period the seller was not
12 registered in the state, if registration occurs within twelve months of the date the state is found
13 in compliance with the Streamlined Sales and Use Tax Agreement.

14 Section 3. The provisions of section 1 of this Act do not apply to any seller with respect to
15 any matter or matters for which the seller received notice of the commencement of an audit and



1 the audit is not yet finally resolved, including any related administrative and judicial processes.
2 The provisions of section 1 of this Act do not apply to any sales or use taxes already paid or
3 remitted to the state or to taxes collected by the seller.

4 Section 4. Absent the seller's fraud or intentional misrepresentation of a material fact, the
5 provisions of section 1 of this Act are fully effective, if the seller remains registered and
6 continues payment or collection and remittance of applicable sales or use taxes for a period of
7 at least thirty-six months from the date of the seller's original registration. The state's statute of
8 limitations applicable to asserting a tax liability is tolled during this thirty-six month period.

9 Section 5. The provisions of section 1 of this Act are applicable only to sales or use taxes
10 due from a seller in its capacity as a seller and not to sales or use taxes due from a seller in its
11 capacity as a buyer.

State of South Dakota

EIGHTIETH
LEGISLATIVE ASSEMBLY, 2005

717L0081

SENATE TAXATION COMMITTEE ENGROSSED NO.

SB 2 - 01/26/2005

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

Introduced by: Senators Lintz, Greenfield, Hundstad, and Peterson (Jim) and Representatives Hargens, Deadrick, Fryslie, and Rhoden at the request of the Interim Committee on Property Assessment

1 FOR AN ACT ENTITLED, An Act to revise the procedure for assessing certain agricultural
2 property.

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

4 Section 1. That § 10-6-33.25 be amended to read as follows:

5 10-6-33.25. For the purposes of § 10-6-33.24, the agricultural income value shall be
6 determined using capitalized annual cash rent. The annual cash rent is the annual cash rent,
7 excluding the per acre tax on agricultural land, determined through an analysis of arms-length
8 rental agreements collected within the county in the year three years prior to the year for which
9 the agricultural income value is being determined. The agricultural income value of cropland
10 shall be based on average rents over a three-year period for cropland under natural conditions.
11 The agricultural income value of noncropland shall be based on average rents over a three-year
12 period for noncropland under natural conditions. However, no arms-length rental agreements
13 for irrigated land may be used to determine the annual cash rent pursuant to this section. The
14 annual cash rent shall be capitalized at seven and three-fourths percent.



1 The secretary of revenue and regulation may enter into a contract for the collection of cash
2 rent information by county. Cash rent information shall be adjusted by soil survey statistics, if
3 available, and pursuant to section 2 of this Act.

4 Section 2. That chapter 10-6 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 The director of equalization shall annually determine the assessed value of agricultural land
7 as defined by § 10-6-31.3. Any agricultural land assessed based on its agricultural income value
8 pursuant to § 10-6-32.24 and 10-6-33.25 may be value adjusted by the following factors:

- 9 (1) The capacity of the land to produce agricultural products as defined in § 10-6-33.2;
10 and
11 (2) The location, size, soil survey statistics, terrain, and topographical condition of the
12 land including the climate, accessibility, and surface obstructions which can be
13 documented.

14 Section 3. That chapter 10-6 be amended by adding thereto a NEW SECTION to read as
15 follows:

16 If the median rent value per acre in an identifiable region within a county deviates by more
17 than ten percent from the county median rent value per acre, the county director of equalization
18 may establish a separate rent value per acre for the land defined by the director of equalization
19 within that identifiable region.

State of South Dakota

EIGHTIETH LEGISLATIVE ASSEMBLY, 2005

717L0059

SENATE TAXATION COMMITTEE ENGROSSED NO.

SB 3 - 01/26/2005

Introduced by: Senators Lintz, Greenfield, Hundstad, Knudson, and Peterson (Jim) and Representatives Hargens, Dadrick, Fryslic, and Rhoden at the request of the Interim Committee on Property Assessment

1 FOR AN ACT ENTITLED, An Act to permit written statements to be filed concerning the
2 leasing of agricultural land and to provide for the confidentiality and usage of such
3 information.

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

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

7 Each lease of agricultural land or agreement to rent agricultural land for a period of more
8 than ninety days may be abstracted in a written statement in a form approved by the department.

9 The statement, if filed, shall contain the following information:

- 10 (1) The name and address of the lessor and lessee;
- 11 (2) The legal description of the property;
- 12 (3) The situs address, if any, of the property;
- 13 (4) The cash or cash equivalent of the lease payments for cropland and noncropland;
- 14 (5) The value per acre of any other rights retained by the lessor;



1 (6) The conditions of the lease, including the relationship, if any, of the parties; and

2 (7) The lessor expenses associated with the property excluding land cost, interest on the
3 land cost, income tax depreciation, and capital improvements.

4 Section 2. That chapter 10-6 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 All financial information submitted by the lessor or lessee to the director of equalization and
7 received by the department pursuant to this Act is confidential. It is a Class 2 misdemeanor to
8 disclose any financial information collected pursuant to this Act, except to the extent necessary
9 to carry out the official duties of the director of equalization and the department.

10 Section 3. That chapter 10-6 be amended by adding thereto a NEW SECTION to read as
11 follows:

12 The owner or lessor or an agent of the owner or lessor may file the written statement with
13 the director of equalization for use by the assessor for the valuation process. The person filing
14 the written statement shall sign the statement and declare under penalty of perjury that the
15 contents of the statement are accurate. The director of equalization shall transmit a copy of the
16 statement to the department.

State of South Dakota

EIGHTIETH
LEGISLATIVE ASSEMBLY, 2005

400L0256

HOUSE ENGROSSED NO. **SB 13** - 01/31/2005

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

1 FOR AN ACT ENTITLED, An Act to create certain provisions regarding transfers of
2 experience rating accounts and assignment of unemployment insurance tax rates.

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

4 Section 1. That § 61-5-33 be amended to read as follows:

5 61-5-33. Any individual, group of individuals, or employing unit that acquires its
6 organization, trade or business from an employer for whom an experience-rating account has
7 been maintained by the Department of Labor, shall immediately notify the department and upon
8 the mutual consent of the parties concerned and approval of the department, may assume the
9 position of the employer with respect to the experience-rating account. ~~However, transfer of the~~
10 ~~experience-rating account from the predecessor to the successor employer shall be mandatory~~
11 ~~if the ownership of both entities is substantially the same.~~ If the experience-rating account is not
12 assumed by the successor employer or employing unit, the initial contribution rate for employers
13 pursuant to § 61-5-20.2 shall be assigned to the successor employer or employing unit. The
14 department shall promulgate rules pursuant to chapter 1-26 to carry out the provisions of this
15 section consistent with federal standards of additional credit allowance as provided in section
16 3303 of the Internal Revenue Code.



1 Section 2. That chapter 61-5 be amended by adding thereto a NEW SECTION to read as
2 follows:

3 Notwithstanding any other provision of law, the following provisions apply with regard to
4 assignment of rates and transfers of experience:

5 (1) If an employer transfers its organization, trade, or business, or a portion thereof, to
6 another employer and, at the time of the transfer, there is substantially common
7 ownership, management, or control of the two employers, then the unemployment
8 experience attributable to the transferred organization, trade, or business shall be
9 transferred to the employer to whom the business is so transferred. The rates of both
10 employers shall be recalculated and made effective immediately upon the date of the
11 transfer of the organization, trade, or business; and

12 (2) If a person who is not an employer under this Title at the time the person acquires the
13 organization, trade, or business of an employer, the unemployment experience of the
14 acquired business may not be transferred to the person if the secretary finds that the
15 person acquired the business solely or primarily for the purpose of obtaining a lower
16 rate of contributions. Instead, the person shall be assigned the applicable new
17 employer rate under the provisions of § 61-5-20.2. In determining whether the
18 business was acquired solely or primarily for the purpose of obtaining a lower rate
19 of contributions, the secretary shall use objective factors which may include the cost
20 of acquiring the business, whether the person continued the business enterprise of the
21 acquired business, how long the business enterprise was continued, or whether a
22 substantial number of new employees were hired for performance of duties unrelated
23 to the business activity conducted prior to acquisition.

24 Section 3. That chapter 61-5 be amended by adding thereto a NEW SECTION to read as

1 follows:

2 If a person knowingly violates or attempts to violate provisions of section 2 of this Act
3 related to determining the assignment of a contribution rate, or if a person knowingly advises
4 another person in a way that results in a violation of such provision, the person is guilty of a
5 Class 1 misdemeanor. In addition, the person is subject to the following penalties:

6 (1) If the person is an employer, the employer shall be assigned the highest rate
7 assignable under this chapter for the rate year during which the violation or attempted
8 violation occurred and the three rate years immediately following this rate year.
9 However, if the person's business is already at the highest rate for any year, or if the
10 amount of increase in the person's rate would be less than two percent for the year,
11 then a penalty rate of contributions of two percent of taxable wages shall be imposed
12 for such year; or

13 (2) If the person is not an employer, the person is subject to a civil penalty of not more
14 than five thousand dollars. Any such fine shall be deposited in the penalty and
15 interest account established under § 61-3-28.

16 For purposes of this section, the term, knowingly, means having actual knowledge of or
17 acting with deliberate ignorance or reckless disregard for the prohibition involved.

18 Section 4. That chapter 61-5 be amended by adding thereto a NEW SECTION to read as
19 follows:

20 The secretary may promulgate rules pursuant to chapter 1-26 to implement the application
21 of section 2 of this Act to the assignment of rates and transfers of experience.

22 Section 5. That chapter 61-5 be amended by adding thereto a NEW SECTION to read as
23 follows:

24 Terms used in sections 2 to 4, inclusive, mean:

1 (1) "Person," person as defined by section 7701(a)(1) of the Internal Revenue Code of
2 1986; and

3 (2) "Trade or business," includes the employer's workforce.

4 Section 6. That chapter 61-5 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 The provisions of sections 2 to 6, inclusive, of this Act shall be interpreted and applied in
7 such a manner as to meet the minimum requirements contained in any guidance or regulations
8 issued by the United States Department of Labor.

9 Section 7. That § 61-5-33.1 be amended to read as follows:

10 61-5-33.1. The Department of Labor may waive the mandatory transfer of the
11 experience-rating account required by ~~§ 61-5-33~~ section 2 of this Act if the inherent nature of
12 the employing unit has substantially and permanently changed since July 1, 1988. The
13 provisions of this section apply to account transfers occurring on or after July 1, 1992.

14 Section 8. That chapter 61-5 be amended by adding thereto a NEW SECTION to read as
15 follows:

16 The secretary shall establish procedures to identify the transfer or acquisition of a business
17 for purposes of this Act.

State of South Dakota

EIGHTIETH
LEGISLATIVE ASSEMBLY, 2005

400L0273

SENATE APPROPRIATIONS COMMITTEE ENGROSSED NO. **SB 34** - 01/28/2005

Introduced by: The Committee on Appropriations at the request of the Board of Regents

1 FOR AN ACT ENTITLED, An Act to make an additional appropriation to construct a
2 thermophilic anaerobic manure digestion system for the South Dakota Agricultural
3 Experiment Station and to declare an emergency.

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

5 Section 1. That section 2 of chapter 113 of the 2004 Session Laws be amended to read as
6 follows:

7 There is hereby appropriated ~~one million seven hundred fifty thousand dollars (\$1,750,000)~~
8 two million nine hundred fourteen thousand dollars (\$2,914,000) from federal funds awarded
9 to the South Dakota Agricultural Experiment Station for the purpose of constructing the facility
10 described in section 1 of this Act.

11 Section 2. Notwithstanding the provisions of § 13-51-2, no money from the state general
12 fund, student tuition fees, the educational facilities fund, nor any money appropriated for
13 statewide maintenance and repair, may be used to finance the maintenance and repair of the
14 facilities specified in this Act.

15 Section 3. Whereas, this Act is necessary for the support of the state government and its



- 1 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in
- 2 full force and effect from and after its passage and approval.

State of South Dakota

EIGHTIETH
LEGISLATIVE ASSEMBLY, 2005

400L0314

SENATE HEALTH AND HUMAN SERVICES
COMMITTEE ENGROSSED NO. **SB 41** - 01/31/2005

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

679L0099

SENATE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **SB 73** - 01/31/2005

Introduced by: Senators Lintz, McNenny, and Napoli and Representatives Pederson (Gordon), Brunner, Howie, and McCoy

1 FOR AN ACT ENTITLED, An Act to revise the power of rural fire protection districts to
2 contract with certain entities.

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

4 Section 1. That § 34-31A-18 be amended to read as follows:

5 34-31A-18. Any rural fire protection district may ~~elect to~~ enter into a contract with another
6 rural fire protection district to consolidate or cooperate for mutual fire protection and prevention
7 purposes, or may enter into a contract with any federal, state, or local government agency for
8 fire protection service or fire protection cooperation upon terms suitable to all concerned, ~~and~~
9 power. Power to make such contracts is hereby conferred upon such state or local government
10 agency in addition to such powers as are otherwise provided by law. Any rural fire protection
11 district may enter into a contract with any nonprofit corporation, organized under the laws of
12 this state and whose sole purpose is fire protection, for fire protection service or fire protection
13 cooperation upon terms suitable to all concerned. Any contract between a rural fire protection
14 district and a nonprofit corporation that was entered into prior to the effective date of this Act,
15 and which now complies with the provisions of this section is hereby declared to be valid and



1 legal.

State of South Dakota

EIGHTIETH SESSION
LEGISLATIVE ASSEMBLY, 2005

563L0511

SENATE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **SB 95** - 01/31/2005

Introduced by: Senators Sutton (Duane), Abdallah, Broderick, Gray, Hundstad, Koetzle, McNenny, Moore, and Napoli and Representatives Frost, Cutler, Dennert, Elliott, Jensen, Klaudt, Michels, Murschel, O'Brien, Olson (Ryan), Pederson (Gordon), Rounds, Turbiville, and Valandra

1 FOR AN ACT ENTITLED, An Act to authorize account wagering and multi-jurisdictional
2 simulcasting and interactive wagering totalizator hubs and to revise certain provisions
3 regarding pari-mutuel racing.

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

5 Section 1. That § 42-7-56 be amended to read as follows:

6 42-7-56. The commission shall:

- 7 (1) Provide for racing under the certificate system;
- 8 (2) Perform quasi-legislative, quasi-judicial, and advisory functions excluding special
9 budgetary functions as defined in § 1-32-1;
- 10 (3) Set racing dates;
- 11 (4) Promulgate rules pursuant to chapter 1-26 for effectively preventing the use of any
12 substance, compound items, or combination thereof of any medicine, narcotic,
13 stimulant, depressant, or anesthetic which could alter the normal performance of a
14 racing animal unless specifically authorized by the commission;



- 1 (5) Supervise and check the making of pari-mutuel pools, pari-mutuel machines, and
2 equipment used within the state;
- 3 (6) Promulgate rules pursuant to chapter 1-26 governing, restricting, or regulating bids
4 on licensees' concessions and leases on equipment;
- 5 (7) Approve all proposed extensions, additions, or improvements to the buildings,
6 stables, or tracts upon property owned or leased by a licensee;
- 7 (8) Exclude from race courses or other pari-mutuel facilities any person who violates the
8 racing laws or any rule, ~~regulation~~, or order of the commission or is not eligible for
9 licensing in another racing jurisdiction;
- 10 (9) Compel the production of all documents showing the receipts and disbursements of
11 any licensee and determine the manner in which ~~such~~ the financial records shall be
12 kept;
- 13 (10) Investigate the operations of any licensee and cause the various places where the
14 certificate system is operated to be visited and inspected at reasonable intervals for
15 the purpose of satisfying itself that the rules ~~and regulations~~ are strictly complied
16 with;
- 17 (11) Request appropriate state officials to perform inspections necessary for the health and
18 safety of spectators, employees, participants, and animals that are lawfully on the race
19 track;
- 20 (12) License all participants in the racing industry and require and obtain such information
21 as the commission deems necessary from licensed applicants;
- 22 (13) Promulgate and enforce additional rules pursuant to chapter 1-26, and conditions
23 under which all horse and dog races held shall be conducted and promulgate rules
24 pursuant to chapter 1-26 to preserve the integrity and security of racing; ~~and~~

1 (14) License all facilities at which money is collected or disbursed under the certificate
2 system;

3 (15) Promulgate rules pursuant to chapter 1-26 for the authorization, regulation, and
4 auditing of account wagering;

5 (16) Promulgate rules pursuant to chapter 1-26 regarding the licensing and regulation of
6 multi-jurisdictional totalizator hubs and the employees of such facilities; and

7 (17) Promulgate rules pursuant to chapter 1-26 to establish application fees and initial
8 system audit fees that shall be used to conduct the background investigation of the
9 applicant and the initial system audit of the multi-jurisdictional totalizator hub. If the
10 commission or the executive secretary determines that the actual cost of the
11 background investigation or initial system audit will exceed the amount of the fees
12 paid, the commission may assess the actual cost of the background investigation or
13 initial system audit, including the costs for personnel and travel, against the applicant.

14 Section 2. That § 42-7-58.7 be amended to read as follows:

15 42-7-58.7. Notwithstanding any other provisions of this chapter, the commission may accept
16 and consider applications at any time for operation of satellite facilities and multi-jurisdictional
17 totalizator hubs to be operated under the certificate system and issue a license at any time for
18 the operation of ~~satellite~~ the facilities or hubs.

19 Section 3. That § 42-7-60 be amended to read as follows:

20 42-7-60. Every person applying for a license under §§ 42-7-58 ~~and~~, 42-7-58.1, and 42-7-
21 56(16) shall give bond payable to the State of South Dakota with good security to be approved
22 by the commission. The bond shall be the amount which the commission determines is adequate
23 to protect the amount normally due and owing to the commission in a sixty-day period or, in the
24 case of new or altered conditions, based on the projected revenues and to guarantee proper

1 payout of wagers.

2 The commission may waive the bond. In such event, the amount of taxes and fees due and
3 owing the state shall be a lien on the license to operate. The lack of timely payment shall be
4 cause for revocation or suspension of the license to operate.

5 Section 4. That § 42-7-65 be amended to read as follows:

6 42-7-65. All transfers of licenses to ~~operate a meet~~ collect or disburse money under the
7 certificate system or transfers of stock in a corporation holding a license shall be subject to prior
8 review and approval by the commission, and the disclosure requirements as provided in § 42-7-
9 59. The commission may approve minor transfers of stock without a hearing. The commission
10 shall apply the standards provided in § 42-7-91 in determining whether it shall permit a transfer
11 of stock.

12 Section 5. That § 42-7-71 be amended to read as follows:

13 42-7-71. One-fourth of all money received by the state treasurer under this chapter from
14 licensees operating horse racing tracks shall be placed in a special revenue fund to be known
15 as the "South Dakota-bred racing fund." The fund shall be used by the commission to encourage
16 horse racing and the raising and breeding of horses in South Dakota and shall be used for the
17 purpose of providing compensation to South Dakota-bred horses ~~by~~ and providing funds to all
18 horsetracks licensed in South Dakota. ~~However, not more than one-fourth of the moneys~~
19 ~~deposited in the South Dakota-bred racing fund may be used by the commission to provide~~
20 ~~purse supplements to horsetracks for horses other than South Dakota-bred horses.~~

21 Section 6. That § 42-7-82 be amended to read as follows:

22 42-7-82. Claims for any part of a redistribution from a pari-mutuel pool shall be made within
23 ~~sixty days~~ one year from the ~~end of the meet at~~ date on which the race was held or be forever
24 barred. Any sums so barred shall become the property of the licensee conducting the meet or

1 providing the simulcast signal from the host track to the satellite facility or the multi-
2 jurisdictional totalizator hub at which the contribution was made.

3 Section 7. That § 42-7-89 be amended to read as follows:

4 42-7-89. The payments required in §§ 42-7-63, 42-7-79, 42-7-85, ~~and~~ 42-7-88, and 42-7-102
5 to be made by the licensee to the state treasurer are in lieu of all other or further excise or
6 occupational taxes to the state or any county, municipality, or other political subdivision.

7 Section 8. That § 42-7-91 be amended to read as follows:

8 42-7-91. The commission may refuse, suspend, or withdraw licenses under the certificate
9 system and privileges granted by it or terminate ~~racing~~ license privileges for just cause. Those
10 things constituting just cause are:

- 11 (1) Any action or attempted action by a person contrary to the provisions of this chapter
12 and law;
- 13 (2) Corrupt practices, which include but are not limited to:
 - 14 (a) Prearranging or attempting to prearrange the order of finish of a race;
 - 15 (b) Failing to properly pay the winnings to a bettor or to properly return change
16 to a bettor upon purchasing a ticket;
 - 17 (c) Falsifying or manipulating the odds on any entrant in a race;
- 18 (3) Any violation of the rules of racing adopted by the commission;
- 19 (4) ~~Willful falsification~~ Falsification or misstatement of fact in an application for ~~racing~~
20 ~~privileges~~ any license issued pursuant to this chapter;
- 21 (5) Material false statement to a racing official or to the commission;
- 22 (6) Willful disobedience of a commission order or of a lawful order of a racing official
23 other than a commissioner;
- 24 (7) Continued failure or inability to meet financial obligations connected with the

1 licensee's business, occupation or profession performed or engaged on the track
2 grounds;

3 (8) Failure or inability to maintain properly a race track;

4 (9) The refusal to license, or the suspension, or the revocation of a racing license by
5 another racing jurisdiction.

6 Section 9. That § 42-7-102 be amended to read as follows:

7 42-7-102. Notwithstanding any other provision of this chapter, the commission may
8 authorize any licensee to participate in an interstate combined wagering pool with one or more
9 other racing jurisdictions. If a licensee participates in an interstate combined wagering pool, the
10 licensee may adopt the take-out of the host jurisdiction or facility. The State of South Dakota
11 shall receive one and one-half percent of the total contributed in this state, and the special racing
12 revolving fund and the South Dakota-bred racing fund shall each receive one and one-half
13 percent of the total contributed in this state. However, if the licensee participating in the
14 interstate combined wagering pool is a multi-jurisdictional totalizator hub, the total portion to
15 be received by the state shall be one-fourth of one percent of the total contributed through the
16 hub, of which the special racing revolving fund shall receive one-fifth of one percent of the total
17 contributed through the hub and the South Dakota-bred racing fund shall receive one-twentieth
18 of one percent of the total contributed through the hub.

State of South Dakota

EIGHTIETH SESSION
LEGISLATIVE ASSEMBLY, 2005

393L0459

SENATE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **SB 111** - 01/31/2005

Introduced by: Senators Dempster, Duenwald, Duniphan, and Two Bulls and Representatives Cutler, Davis, Hackl, and Kroger

1 FOR AN ACT ENTITLED, An Act to provide for the effective date of municipal and county
2 administrative decisions.

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

4 Section 1. That § 9-20-19 be amended to read as follows:

5 9-20-19. Any legislative decision of a governing body is subject to the referendum process.

6 A legislative decision is one that enacts a permanent law or lays down a rule of conduct or
7 course of policy for the guidance of citizens or their officers. Any matter of a permanent or
8 general character is a legislative decision.

9 No administrative decision of a governing body is subject to the referendum process, unless
10 specifically authorized by this code. An administrative decision is one that merely puts into
11 execution a plan already adopted by the governing body itself or by the Legislature. Supervision
12 of a program is an administrative decision. Hiring, disciplining, and setting the salaries of
13 employees are administrative decisions. An administrative decision takes effect upon the
14 passage of the decision unless otherwise specified by ordinance.

15 Section 2. That § 9-19-13 be amended to read as follows:



1 9-19-13. Except such resolutions or ordinances as may be necessary for the immediate
2 preservation of the public peace, health, or safety, or support of the municipal government and
3 its existing public institutions, or which provide for an election or for hearing on an
4 improvement or assessment or which call for bids, which take effect upon the passage and
5 publication thereof, every resolution or ordinance passed by the governing body shall take effect
6 on the twentieth day after its publication unless suspended by operation of a referendum.
7 However, an administrative decision takes effect upon the passage of the decision unless
8 otherwise specified by ordinance.

9 Section 3. That § 7-18A-15.1 be amended to read as follows:

10 7-18A-15.1. Any legislative decision of a board of county commissioners is subject to the
11 referendum process. A legislative decision is one that enacts a permanent law or lays down a
12 rule of conduct or course of policy for the guidance of citizens or their officers. Any matter of
13 a permanent or general character is a legislative decision.

14 No administrative decision of a governing body is subject to the referendum process, unless
15 specifically authorized by this code. An administrative decision is one that merely puts into
16 execution a plan already adopted by the governing body itself or by the Legislature. Supervision
17 of a program is an administrative decision. Hiring, disciplining, and setting the salaries of
18 employees are administrative decisions. An administrative decision takes effect upon the
19 passage of the decision unless otherwise specified by ordinance.

State of South Dakota

EIGHTIETH SESSION
LEGISLATIVE ASSEMBLY, 2005

393L0463

SENATE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **SB 136** - 01/31/2005

Introduced by: Senator Lintz and Representatives Pederson (Gordon) and Howie

1 FOR AN ACT ENTITLED, An Act to provide a procedure for awarding construction project
2 contracts if no bids are received during a competitive bid process and to declare an
3 emergency.

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

5 Section 1. That § 5-18-9.1 be amended to read as follows:

6 5-18-9.1. If after advertising for bids pursuant to § 5-18-3 for any construction project or the
7 purchase of materials, supplies, or equipment, no bids are received, the governing board of a
8 unit of local government may negotiate a contract for any construction project or the purchase
9 of the materials, supplies, or equipment at the most advantageous price. However, the
10 construction project, materials, supplies, or equipment shall meet the specifications of the
11 original advertisement for bids. The governing board shall contact and attempt to obtain
12 competitive quotations from at least three ~~suppliers~~ businesses. A record of the names of the
13 ~~suppliers~~ businesses, the quotations received and the procurement procedures used in purchasing
14 shall be documented, ~~spread upon~~ included in the minutes, and retained on file by the governing
15 body. The contract may include a procedure for adjusting prices to meet changing market



1 conditions not within the control of the ~~vendor~~ business. The adjustments may not result in
2 increases in the profit of the ~~vendor~~ business, and shall be supported by written justification
3 filed with the purchasing agent of the unit of local government.

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

State of South Dakota

EIGHTIETH SESSION
LEGISLATIVE ASSEMBLY, 2005

645L0724

SENATE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **SB 172** - 01/31/2005

Introduced by: Senators Schoenbeck, Apa, Bartling, Bogue, Earley, Hundstad, and Napoli
and Representatives Klautdt, Haverly, Peters, and Rausch

1 FOR AN ACT ENTITLED, An Act to limit the contributions of any person to a political action
2 committee.

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

4 Section 1. That chapter 12-25 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 No person may contribute more than five thousand dollars to any political action committee
7 in any calendar year. A violation of this section is a Class 2 misdemeanor.

