

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

400N0338

SENATE ENGROSSED NO. **HB 1016** - 02/14/2007

Introduced by: The Committee on Judiciary at the request of the Bureau of Administration

1 FOR AN ACT ENTITLED, An Act to exempt law enforcement and emergency vehicle
2 accidents from certain driving records.

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

4 Section 1. That § 32-12-61 be amended to read as follows:

5 32-12-61. The Department of Public Safety shall file all abstracts of court records of
6 convictions received by it under the laws of this state and all accident reports received. The
7 Department of Public Safety shall maintain records or make suitable notations on the individual
8 record of each licensee and any person domiciled in this state who is required to have a driver
9 license showing the convictions, disqualifications, and other licensing actions for violations of
10 any state or local law relating to motor vehicle traffic control committed while the licensee or
11 person was operating any type of vehicle and the traffic accidents in which the licensee or
12 person has been involved. The information shall be readily ascertainable and available for the
13 consideration of the department upon any application for renewal of a license. However, with
14 the exception of convictions resulting from operation of a commercial motor vehicle, no
15 conviction for speeding which is ten miles per hour or less over the posted speed limit and no
16 speeding conviction received from another state may be entered on the licensee's driving record,



1 but may be recorded separately. The separate record may not be made available to the public.
2 No accident may be entered on the driving record of a law enforcement officer, firefighter, or
3 emergency medical technician if such accident resulted from the law enforcement officer's,
4 firefighter's, or emergency medical technician's response to a call of duty as a law enforcement
5 officer, firefighter, or emergency medical technician and the law enforcement officer, firefighter,
6 or emergency medical technician was lawfully engaged in the performance of official duties and
7 was driving an official vehicle. Such accident shall be recorded separately.

8 Section 2. That § 32-35-101 be amended to read as follows:

9 32-35-101. The Department of Public Safety shall furnish to any person upon request a
10 certified abstract of the operating record for the last three years of any person subject to the
11 provisions of this chapter. The abstract shall include enumeration of any motor vehicle accidents
12 in which the person has been involved and reference to any convictions of the person for a
13 violation of the motor vehicle laws as reported to the department. No accident may be entered
14 on the driving record of a law enforcement officer, firefighter, or emergency medical technician
15 if such accident resulted from the law enforcement officer's, firefighter's, or emergency medical
16 technician's response to a call of duty as a law enforcement officer, firefighter, or emergency
17 medical technician and the law enforcement officer, firefighter, or emergency medical
18 technician was lawfully engaged in the performance of official duties and was driving an official
19 vehicle. Such accident shall be recorded separately. The department shall collect four dollars
20 for each abstract. The fee shall be credited to the state motor vehicle fund. Any governmental
21 entity or subdivision is exempt from this fee.

22 Section 3. That chapter 58-24 be amended by adding thereto a NEW SECTION to read as
23 follows:

24 No insurer may increase the premium or rate of an insured at policy issuance, during the

1 term of a policy, or at renewal because of an accident if the insured was responding to a call of
2 duty as a law enforcement officer, firefighter, or emergency medical technician for any accident:

3 (1) That occurred while the law enforcement officer, firefighter, or emergency medical
4 technician was lawfully engaged in the performance of official duties; and

5 (2) That occurred while the law enforcement officer, firefighter, or emergency medical
6 technician was driving an official vehicle; and

7 (3) For which the law enforcement officer, firefighter, or emergency medical technician
8 furnishes notice to the insurer that the accident occurred under circumstances
9 identified in subdivisions (1) and (2) of this section.

10 This section is not applicable to commercial lines policies. Any premium or rate increase in
11 violation of this section, which is made erroneously and does not constitute a continuing
12 business practice of the insurer, may not be the basis of any disciplinary action by the division
13 against the insurer if the insurer refunds any excess premium promptly upon discovery of the
14 error or upon request by the insured.

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

400N0339 HOUSE APPROPRIATIONS COMMITTEE ENGROSSED
NO. **HB 1061** - 02/15/2007

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 Appropriations at the request of the Board of Regents

1 FOR AN ACT ENTITLED, An Act to offer a human papillomavirus (HPV) vaccination
2 initiative, to transfer funds, and to declare an emergency.

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

4 Section 1. The Department of Health may offer human papillomavirus (HPV) vaccine to any
5 woman who is at least eleven years of age and less than nineteen years of age to help protect
6 against the virus that causes cervical cancer at an estimated cost of nine million two hundred
7 thousand dollars. The department may expend up to four hundred thousand dollars of general
8 funds and seven million five hundred thousand dollars of federal fund authority from its fiscal
9 year 2007 budget.

10 Section 2. The Department of Social Services shall transfer one million three hundred
11 thousand dollars of general funds to the Department of Health to provide additional funding for
12 this initiative.

13 Section 3. Whereas, this Act is necessary for the support of the state government and its
14 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in
15 full force and effect from and after its passage and approval.



State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

695N0041 **HOUSE EDUCATION COMMITTEE ENGROSSED NO.**
HB 1082 - 02/13/2007

Introduced by: Representatives Heineman, Dadrick, Halverson, and McLaughlin and
Senators Olson (Ed) and Knudson

1 FOR AN ACT ENTITLED, An Act to revise the funding of K-12 education in the state.

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

3 Section 1. The Legislature finds, based upon a two-year study of school funding that was
4 undertaken by the Department of Education in 2005 at the direction of the Legislature and
5 included legislators, school officials, and business leaders, that in order to enhance the
6 educational opportunities available to all of our state's children and to provide those
7 opportunities in the most efficient and equitable manner, it is necessary to revise the current
8 school funding formula that was enacted in 1995.

9 Section 2. That chapter 13-6 be amended by adding thereto a NEW SECTION to read as
10 follows:

11 Any school district that has a fall enrollment, as defined in this Act, of less than one hundred
12 thirty and is not a sparse school district, as defined in § 13-13-78, shall reorganize with another
13 school district or school districts to create a newly reorganized school district with a fall
14 enrollment of one hundred thirty or greater. Any school district that is not sparse and has a fall
15 enrollment of one hundred thirty or less on July 1, 2007 shall prepare a plan for reorganization



1 by June 30, 2009. After July 1, 2007, if the fall enrollment of any school district that is not
 2 sparse falls to one hundred thirty or below, that school district shall prepare a plan for
 3 reorganization within two years. If any such district fails to prepare a plan for reorganization by
 4 the deadline, the Board of Education shall prepare a reorganization plan for the district.

5 Section 3. That § 13-6-92 be amended to read as follows:

6 13-6-92. If two or more school districts consolidate ~~after July 1, 2001~~, the new school
 7 district is entitled to an additional ~~three~~ six hundred dollars per ~~average daily membership as~~
 8 ~~defined in § 13-13-10.1~~ fall enrollment as defined in this Act, up to a maximum of four hundred
 9 ~~average daily membership~~ fall enrollment from each school district or a prorated portion thereof
 10 from a partial school district as it existed prior to consolidation for the first year after
 11 consolidation. If two or more school districts consolidate ~~after July 1, 2001~~, the new school
 12 district is entitled to an additional ~~two~~ four hundred dollars per ~~average daily membership as~~
 13 ~~defined in § 13-13-10.1~~ fall enrollment as defined in this Act, up to a maximum of four hundred
 14 ~~average daily membership~~ fall enrollment from each school district or a prorated portion thereof
 15 from a partial school district as it existed prior to consolidation for the second year after
 16 consolidation. If two or more school districts consolidate ~~after July 1, 2001~~, the new school
 17 district is entitled to an additional ~~one~~ two hundred dollars per ~~average daily membership as~~
 18 ~~defined in § 13-13-10.1~~ fall enrollment as defined in this Act, up to a maximum of four hundred
 19 ~~average daily membership~~ fall enrollment from each school district or a prorated portion thereof
 20 from a partial school district as it existed prior to consolidation for the third year after
 21 consolidation.

22 Section 4. That chapter 13-13 be amended by adding thereto a NEW SECTION to read as
 23 follows:

24 The consolidation incentives provided for in §§ 13-13-1.4 to 13-13-1.7, inclusive, apply only

1 to those school districts whose consolidations are completed prior to July 1, 2007.

2 Section 5. That § 13-13-1.4 be amended to read as follows:

3 13-13-1.4. If two or more school districts consolidate, for a period of four years after
4 consolidation, the ~~adjusted average daily membership~~ local need for the newly formed district
5 shall be based upon the ~~average daily membership as defined in § 13-13-10.1~~ fall enrollment
6 as defined in this Act of those school districts that have not previously benefited from this
7 section as they existed prior to consolidation. In years two to four, inclusive, after the
8 consolidation, the relationship between the ~~adjusted average daily membership~~ local need and
9 ~~average daily membership~~ fall enrollment shall be proportional to the relationship that existed
10 for the first year.

11 Section 6. That § 13-13-1.5 be amended to read as follows:

12 13-13-1.5. In years five to eight, inclusive, after the consolidation of two or more school
13 districts, the ~~adjusted average daily membership~~ local need for the newly formed district shall
14 be calculated as follows:

- 15 (1) Calculate ~~adjusted average daily membership~~ local need pursuant to § 13-13-10.1
16 § 13-13-73;
- 17 (2) Notwithstanding the four-year time limit, calculate ~~adjusted average daily~~
18 ~~membership~~ local need pursuant to § 13-13-1.4;
- 19 (3) Subtract the results of subdivision (1) from the results of subdivision (2);
- 20 (4) Multiply the results of subdivision (3) by eighty percent in the fifth year, sixty
21 percent in the sixth year, forty percent in the seventh year, and twenty percent in the
22 eighth year;
- 23 (5) Add the results of subdivision (1) and the results of subdivision (4).

24 Section 7. That § 13-13-10.1 be amended to read as follows:

1 13-13-10.1. Terms used in this chapter mean:

2 (1) ~~"Average daily membership," the average number of resident and nonresident~~
3 ~~kindergarten through twelfth grade pupils enrolled in all schools operated by the~~
4 ~~school district during the previous regular school year, minus average number of~~
5 ~~pupils for whom the district receives tuition, except pupils described in subdivision~~
6 ~~(1A) and pupils for whom tuition is being paid pursuant to § 13-28-42 and plus the~~
7 ~~average number of pupils for whom the district pays tuition;~~

8 ~~—(1A) Nonresident students who are in the care and custody of the Department of Social~~
9 ~~Services, the Unified Judicial System, the Department of Corrections, or other state~~
10 ~~agencies and are attending a public school may be included in the average daily~~
11 ~~membership of the receiving district when enrolled in the receiving district. When~~
12 ~~counting a student who meets these criteria in its general enrollment average daily~~
13 ~~membership, the receiving district may begin the enrollment on the first day of~~
14 ~~attendance. The district of residence prior to the custodial transfer may not include~~
15 ~~students who meet these criteria in its general enrollment average daily membership~~
16 ~~after the student ceases to attend school in the resident district;~~

17 ~~—(2) "Adjusted average daily membership," calculated as follows:~~

18 ~~—(a) For districts with an average daily membership of two hundred or less,~~
19 ~~multiply 1.2 times the average daily membership;~~

20 ~~—(b) For districts with an average daily membership of less than six hundred, but~~
21 ~~greater than two hundred, raise the average daily membership to the 0.8293~~
22 ~~power and multiply the result times 2.98;~~

23 ~~—(c) For districts with an average daily membership of six hundred or more,~~
24 ~~multiply 1.0 times their average daily membership "Fall enrollment," the~~

1 number of kindergarten through twelfth grade students enrolled in all schools
2 operated by the school district on the last Friday of September of the previous
3 school year minus the number of students for whom the district receives
4 tuition, except nonresident students who are in the care and custody of a state
5 agency and are attending a public school and students for whom tuition is
6 being paid pursuant to § 13-28-42.1, plus the number of students for whom the
7 district pays tuition. No student who is partially enrolled in a school may be
8 counted in the fall enrollment for that school unless the partial enrollment
9 exceeds fifty percent. When computing state aid to education for a school
10 district under the foundation program pursuant to § 13-13-73, the secretary of
11 the Department of Education shall use either the school district's fall
12 enrollment or the average of the school district's fall enrollment and the school
13 district's fall enrollment from the prior year, whichever is higher;

14 (1A) "Current fall enrollment," the number of kindergarten through twelfth grade students
15 enrolled in all schools operated by the school district on the last Friday of September
16 of the current school year minus the number of students for whom the district
17 receives tuition except nonresident students who are in the care and custody of a state
18 agency and are attending a public school and students for whom tuition is being paid
19 pursuant to § 13-28-42.1, plus the number of students for whom the district pays
20 tuition. No student who is partially enrolled in a school may be counted in the current
21 fall enrollment for that school unless the partial enrollment exceeds fifty percent;

22 (2) "Small school adjustment," for school districts with a fall enrollment of at least one
23 hundred thirty, but less than six hundred, is calculated as follows:

24 (a) Multiply the fall enrollment times negative 0.0005;

- 1 (b) Add 0.3 to the result of subsection (a); and
- 2 (c) Multiply the sum obtained in subsection (b) times \$4,237.72;
- 3 (2A) "Sparsity small school adjustment," for sparse school districts, as defined in
4 subdivision 13-13-78 (1), is calculated as follows:
- 5 (a) Multiply the fall enrollment times negative 0.0005;
- 6 (b) Add 0.3 to the result of subsection (a); and
- 7 (c) Multiply the sum obtained in subsection (b) times the per student allocation;
- 8 (3) "Index factor," is the annual percentage change in the consumer price index for urban
9 wage earners and clerical workers as computed by the Bureau of Labor Statistics of
10 the United States Department of Labor for the year before the year immediately
11 preceding the year of adjustment or three percent, whichever is less;
- 12 (4) "Per student allocation," for school fiscal year 2006 is \$4,237.72. Each school fiscal
13 year thereafter, the per student allocation is the previous fiscal year's per student
14 allocation increased by the index factor;
- 15 (5) "Local need," ~~the~~ is the sum of:
- 16 (a) The per student allocation multiplied by the ~~adjusted average daily~~
17 membership fall enrollment; and
- 18 (b) The small school adjustment or the sparsity small school adjustment, if
19 applicable, multiplied by the fall enrollment;
- 20 (6) "Local effort," the amount of ad valorem taxes generated in a school fiscal year by
21 applying the levies established pursuant to § 10-12-42;
- 22 (7) "General fund balance," the unreserved fund balance of the general fund, less general
23 fund exclusions plus, beginning with transfers made in fiscal year 2001, any transfers
24 out of the general fund for the previous school fiscal year;

1 (8) "General fund balance percentage," is a school district's general fund balance divided
 2 by the school district's total general fund expenditures for the previous school fiscal
 3 year, the quotient expressed as a percent;

4 (9) "General fund base percentage," is the lesser of:

5 (a) The general fund balance percentage as of June 30, 2000; or

6 (b) The maximum allowable percentage for that particular fiscal year as stated in
 7 this subsection.

8 For fiscal year 2008, the maximum allowable percentage is one hundred percent; for
 9 fiscal year 2009, eighty percent; for fiscal year 2010, sixty percent; for fiscal year
 10 2011, forty percent; for fiscal year 2012 and subsequent fiscal years, twenty-five
 11 percent. However, the general fund base percentage can never increase and can never
 12 be less than ~~twenty~~ twenty-five percent;

13 (10) "Allowable general fund balance," the general fund base percentage multiplied by the
 14 district's 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, revenue a school district has received
 21 as compensation for being a sparse school district under the terms of §§ 13-13-78 and
 22 13-13-79, inclusive; and any revenue in the general fund set aside for a noninsurable
 23 judgment.

24 Section 8. That chapter 13-13 be amended by adding thereto a NEW SECTION to read as

1 follows:

2 If a school district's current fall enrollment, as defined in this Act, increases by at least five
3 percent or by a minimum of twenty five students over the fall enrollment, that school district
4 shall receive a one-time payment equal to fifty percent of the per student allocation times the
5 number of students by which the current fall enrollment exceeds the fall enrollment. The
6 payment shall be made to the district prior to the first of December in the current school year.

7 Section 9. That § 13-13-73 be amended to read as follows:

8 13-13-73. The secretary of the Department of Education shall compute state aid to education
9 for each school district under the foundation program according to the following calculations:

- 10 (1) Determine each school district's ~~average daily membership~~ fall enrollment;
- 11 (2) To arrive at the local need per district:
 - 12 (a) Multiply the per student allocation by the ~~adjusted average daily membership~~
13 ~~to arrive at the local need per district~~ fall enrollment;
 - 14 (b) Multiply the small school adjustment or the sparsity small school adjustment,
15 if applicable, by the fall enrollment; and
 - 16 (c) Add the product of subsection (a) to the product of subsection (b);
- 17 (3) State aid is (a) local need minus local effort, or (b) zero if the calculation in (a) is a
18 negative number;
- 19 (4) If the state aid appropriation for the general support of education is in excess of the
20 entitlement provided for in this section, the excess shall be used to fund any shortfall
21 of the appropriation as provided for in §§ 13-37-36.3 and 13-37-43. The secretary
22 shall report to the Governor by January seventh of each year, the amount of state aid
23 necessary to fully fund the general aid formula in the current year. If a shortfall in the
24 state aid appropriation for general education exists that cannot be covered by § 13-

1 37-45, the Governor shall inform the Legislature and provide a proposal to eliminate
2 the shortfall.

3 Section 10. That § 13-13-73.2 be amended to read as follows:

4 13-13-73.2. A school district's state aid for general education as calculated pursuant to § 13-
5 13-73 shall be reduced by ~~the following calculation:~~

6 ~~(1) Subtract the allowable general fund balance from the general fund balance. If the~~
7 ~~result is less than zero, (1) equals zero;~~

8 ~~(2) Determine the lower of the general fund base percentage or the general fund balance~~
9 ~~percentage;~~

10 ~~(3) Subtract twenty percent (0.2) from the result of (2). If the result is less than zero, (3)~~
11 ~~equals zero;~~

12 ~~(4) Multiply the result of (3) by the district's general fund expenditures in the previous~~
13 ~~school fiscal year;~~

14 ~~(5) Multiply the result of (4) by the imputed interest rate;~~

15 ~~(6) Add the result of (1) and the result of (5) the amount calculated by subtracting the~~
16 ~~allowable general fund balance from the general fund balance. If the result is less~~
17 ~~than zero, the result equals zero.~~

18 Section 11. That § 13-13-73.3 be amended to read as follows:

19 13-13-73.3. The secretary of education shall determine the reduction in state aid to education
20 pursuant to § 13-13-73.2. The secretary of education shall distribute the amount of money so
21 determined to school districts that received state aid pursuant to chapter 13-13 on a pro rata
22 basis according to the district's ~~average daily membership~~ fall enrollment compared to the total
23 ~~average daily membership~~ fall enrollment of all districts eligible for this distribution.

24 Section 12. That § 13-13-78 be amended to read as follows:

1 13-13-78. Terms used in § 13-13-79 mean:

- 2 (1) "Sparse school district," a school district that meets each of the following criteria:
- 3 (a) Has ~~an average daily membership~~ a fall enrollment per square mile of 0.50 or
4 less;
- 5 (b) Has ~~an average daily membership~~ a fall enrollment of five hundred or less;
- 6 (c) Has an area of four hundred square miles or more;
- 7 (d) Has at least ~~fifteen~~ twenty miles between its secondary attendance center or
8 centers and that of an adjoining district;
- 9 (e) Operates a secondary attendance center;
- 10 (f) Levies ad valorem taxes at the maximum rates allowed pursuant to § 10-12-42
11 or more; and
- 12 (g) Has a general fund balance percentage of ~~thirty~~ twenty-five percent or less
13 excluding revenue received from opting out of property tax limitations
14 pursuant to chapter 10-12;
- 15 (2) "~~Sparsity average daily membership fall enrollment,~~ for sparse school districts with
16 a fall enrollment as defined in this Act of less than eighty-three or greater than two
17 hundred thirty-two, is calculated as follows:
- 18 (a) ~~For sparse school districts with an adjusted average daily membership as~~
19 ~~defined in subdivision 13-13-10.1(2) of less than one hundred or greater than~~
20 ~~two hundred seventy-five, divide the average daily membership as defined in~~
21 ~~subdivision 13-13-10.1(1)~~ Divide the fall enrollment as defined in this Act by
22 the area of the school district in square miles;
- 23 (b) Multiply the quotient obtained in subsection (a) times negative 0.125;
- 24 (c) Add 0.0625 to the product obtained in subsection (b); and

1 (d) Multiply the sum obtained in subsection (c) times the ~~average daily~~
2 membership fall enrollment;

3 (3) "Sparsity adjusted ~~average daily membership fall enrollment~~," calculated as follows:
4 For any sparse school district with an adjusted average daily membership as defined
5 in subdivision 13-13-10.1(2) of no less than one hundred, but no more than two
6 hundred seventy-five, the sparsity adjusted average daily membership is two hundred
7 seventy-five for sparse school districts with a fall enrollment as defined in this Act
8 of at least eighty-three, but no more than two hundred thirty-two, subtract the fall
9 enrollment from two hundred thirty-two.

10 Section 13. That § 13-13-79 be amended to read as follows:

11 13-13-79. At the same time that foundation program state aid is distributed to school
12 districts pursuant to §§ 13-13-10.1 to 13-13-41, inclusive, the secretary of the Department of
13 Education shall distribute funds to sparse school districts by multiplying ~~either the sparsity~~
14 ~~average daily membership calculation or the sparsity adjusted average daily membership~~
15 ~~calculation in § 13-13-78~~ the result of the calculation in either subdivision 13-13-78(2) or
16 subdivision 13-13-78(3) by the per student allocation as defined in § 13-13-10.1. However, no
17 sparse school district may receive a sparsity benefit in any year that exceeds two hundred fifty
18 thousand dollars.

19 Section 14. That § 13-3-70 be repealed.

20 ~~—13-3-70. There is hereby appropriated from the state general fund the sum of six million five~~
21 ~~hundred thousand dollars (\$6,500,000), or so much thereof that may be necessary, to the~~
22 ~~Department of Education. The secretary of the Department of Education shall distribute the~~
23 ~~funds to school districts pursuant to §§ 13-3-71 and 13-3-72 based on average daily membership~~
24 ~~as defined in subdivision 13-13-10.1(1) at the same time that foundation program state aid is~~

1 ~~distributed to school districts pursuant to §§ 13-13-10.1 to 13-13-41, inclusive.~~

2 Section 15. That § 13-3-71 be repealed.

3 ~~—13-3-71. School districts that meet adequate yearly progress in reading and math under the~~
4 ~~terms of the state's accountability system established in § 13-3-62 shall receive funding~~
5 ~~according to the provisions of § 13-3-70.~~

6 Section 16. That § 13-3-72 be repealed.

7 ~~—13-3-72. Those school districts that fail to meet adequate yearly progress under the terms~~
8 ~~of the state's accountability system established in § 13-3-62 may apply to the department for a~~
9 ~~grant to assist the district in meeting future academic targets. In order to qualify for a grant, a~~
10 ~~school district shall submit to the department a school district improvement plan outlining the~~
11 ~~steps the district will undertake to reach adequate yearly progress, and the plan shall be~~
12 ~~approved by the secretary of education. However, no grant may be awarded to a school district~~
13 ~~in an amount that exceeds what that school district would have received if it had achieved~~
14 ~~adequate yearly progress.~~

15 Section 17. That § 13-13-1.2 be amended to read as follows:

16 13-13-1.2. Any records related to the reporting of average daily membership fall enrollment
17 of a public school district shall be subject to examination by the Department of Education at all
18 times.

19 Section 18. That § 13-13-1.3 be amended to read as follows:

20 13-13-1.3. If, in the department's examination of average daily membership fall enrollment,
21 it is determined that the data was overreported, the department shall recover the amount of state
22 aid overpaid as a result of the overreporting. Upon recovery of the overpayment, the department
23 shall deposit the overpayment into the state general fund. If the overreporting occurred with the
24 intent to increase the amount of state aid received by overreporting, the individual person

1 responsible for the overreporting may be charged with a Class 1 misdemeanor as provided in
2 § 13-8-44, with the maximum penalty as defined in § 22-6-2.

3 Section 19. That § 13-13-1.8 be amended to read as follows:

4 13-13-1.8. ~~Students~~ No student attending the Black Hills Forest High School in Lawrence
5 County may ~~not~~ be included by any school district in its ~~average daily membership~~ fall
6 enrollment for purposes of state aid to education.

7 Section 20. That § 13-15-28 be amended to read as follows:

8 13-15-28. Any school district that enters into contractual agreements pursuant to § 13-15-11
9 and sends over fifty percent of its resident students enrolled in grades for which it contracts to
10 an adjoining school district or districts located in South Dakota shall reorganize the school
11 district pursuant to chapter 13-6 within two years of the end of the school year. For the purposes
12 of this section, the number of students attending adjoining districts shall be based on ~~average~~
13 ~~daily membership pursuant to subdivision 13-13-10.1(1)~~ fall enrollment as defined in this Act.
14 This section does not apply to a school district located wholly within the boundaries of an Indian
15 reservation.

16 Section 21. That § 13-28-40 be amended to read as follows:

17 13-28-40. An enrollment options program is established to enable any South Dakota
18 kindergarten through twelfth grade student to attend any public school that serves the student's
19 grade level in any South Dakota school district, subject to the provisions in §§ 13-28-40 to 13-
20 28-47, inclusive. For purposes of determining state aid to education as it relates to the provisions
21 of §§ 13-28-40 to 13-28-47, inclusive, ~~average daily membership as defined in § 13-13-10.1~~
22 fall enrollment as defined in this Act is used to compute foundation aid and special education
23 average daily membership as defined in § 13-37-35 is used to determine funding for special
24 education.

1 Section 22. That § 13-28-49 be amended to read as follows:

2 13-28-49. Notwithstanding the provisions of § 13-28-40, any student who enrolls in another
3 school district pursuant to the provisions contained in §§ 13-28-40 to 13-28-47, inclusive, from
4 a district that does not receive state aid pursuant to chapter 13-13 in the succeeding fiscal year
5 remains the financial obligation of the resident district. For each student, the resident district
6 shall pay tuition to the nonresident district in the succeeding fiscal year per the following
7 calculation:

- 8 (1) ~~Multiply~~ Determine the nonresident district's ~~adjusted average daily membership~~
9 ~~calculated pursuant to subdivision 13-13-10.1(2) by the per student allocation as~~
10 ~~defined in subdivision 13-13-10.1(4)~~ local need pursuant to subdivision 13-13-73(2);
- 11 (2) Divide the result of (1) by the nonresident district's ~~average daily membership~~
12 ~~calculated pursuant to subdivision 13-13-10.1(1)~~ fall enrollment as defined in this
13 Act;
- 14 (3) Multiply the result of (2) by the number of days the student was enrolled in the
15 nonresident district;
- 16 (4) Divide the result of (3) by the number of days the nonresident district was in session.

17 Section 23. That § 13-28A-7 be amended to read as follows:

18 13-28A-7. For the purposes of state aid to education distributed pursuant to chapter 13-13,
19 any student sent to South Dakota from North Dakota is included in the receiving school district's
20 ~~average daily membership~~ fall enrollment.

21 Section 24. That § 13-28A-8 be amended to read as follows:

22 13-28A-8. For the purposes of state aid to education distributed pursuant to chapter 13-13,
23 any student sent to North Dakota from South Dakota may not be included in the resident school
24 district's ~~average daily membership~~ fall enrollment.

1 Section 25. That § 12-25-6.1 be amended to read as follows:

2 12-25-6.1. The provisions of this chapter, except §§ 12-25-27 to 12-25-31, inclusive, do not
3 apply to any candidate or candidate election for judicial, municipal, or other governmental
4 subdivision offices. However, the governing body of any municipality or other governmental
5 subdivision may adopt an ordinance or resolution to make the provisions of chapter 12-25, with
6 or without amendments, applicable to municipal or other governmental subdivision elections.
7 The provisions of this chapter do apply to any candidate or candidate election for any county
8 office or school board seat in a district with ~~an average daily membership~~ a fall enrollment in
9 excess of two thousand students during the previous academic year.

10 Section 26. That § 42-7B-48.1 be amended to read as follows:

11 42-7B-48.1. Disbursements from the Gaming Commission fund shall be as set forth in § 42-
12 7B-48 until such time as the net municipal proceeds paid to the City of Deadwood equals six
13 million eight hundred thousand dollars for each year, and after payment of commission expenses
14 pursuant to subdivision 42-7B-48(2), and after payment of one hundred thousand dollars to the
15 State Historical Preservation Grant and Loan fund pursuant to subdivision 42-7B-48(4).
16 Thereafter, all remaining funds shall be distributed as follows:

- 17 (1) Seventy percent to the state general fund;
- 18 (2) Ten percent to be distributed to municipalities in Lawrence County, except the City
19 of Deadwood, pro rata according to their population;
- 20 (3) Ten percent to be distributed to school districts, pro rata based upon the previous
21 year's ~~average daily membership~~ fall enrollment, located in whole or in part, in
22 Lawrence County. For any school district located only partly in Lawrence County,
23 only that portion of the district's ~~average daily attendance~~ fall enrollment which
24 represents students residing in Lawrence County shall be considered in calculating

1 the proration required by this subdivision; and

2 (4) Ten percent to the City of Deadwood for deposit in the historic restoration and
3 preservation fund.

4 Section 27. That chapter 13-13 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 The school district other revenue fund is hereby created in the state treasury.

7 Section 28. That chapter 13-13 be amended by adding thereto a NEW SECTION to read as
8 follows:

9 The secretary of the Department of Education shall distribute the funds from the school
10 district other revenue fund to the school districts on the basis of fall enrollment as defined in this
11 Act, at the same time that foundation program state aid is distributed to school districts pursuant
12 to §§ 13-13-10.1 to 13-13-41, inclusive.

13 Section 29. That § 13-13-4 be repealed.

14 ~~13-13-4. The county general school fund to be apportioned pursuant to § 13-13-5 shall~~
15 ~~consist of the net proceeds of all fines for violation of state laws and any tax so designated in~~
16 ~~Title 10.~~

17 Section 30. That § 13-13-5 be repealed.

18 ~~13-13-5. The county treasurer shall on or before the fifth day of January and July furnish the~~
19 ~~county auditor with a statement of all money in the county treasury belonging to the county~~
20 ~~general school fund and shall pay the money, upon the order of the auditor to the public school~~
21 ~~districts having land area within the county in proportion to the average daily membership of~~
22 ~~children residing in the school districts as certified by the Division of Education Services and~~
23 ~~Resources.~~

24 Section 31. That § 10-33-21 be amended to read as follows:

1 10-33-21. All persons, corporations, cooperatives, and associations engaged in furnishing
2 and providing telephone and exchange service comprising rental and toll service by means of
3 wired circuits and otherwise and whose annual gross receipts are less than fifty million dollars
4 shall be taxed on the basis of gross receipts at the rate of four percent.

5 However, no telephone company operating in this state may be taxed less than an amount
6 equal to fifty cents per year per telephone serviced. ~~Further, each telephone company that was~~
7 ~~taxed in the five percent tax category for the calendar year 2001 shall pay an amount of tax to~~
8 ~~each school district of not less than the tax received by such school district in 2002 for the years~~
9 ~~2003 and 2004.~~

10 Section 32. That § 10-33-24 be amended to read as follows:

11 10-33-24. ~~It shall be the duty of the~~ The secretary of revenue and regulation ~~to shall~~ compute
12 and determine the amount of tax to be paid by such company as provided in § 10-33-21 ~~and he~~
13 ~~shall on or before July first following certify to the county auditor of each county in the state in~~
14 ~~which such company operates the amount of the tax to be paid in such county on the basis of~~
15 ~~the gross receipts received by such company from its operations in such county and shall further~~
16 ~~certify to the county auditor the amount to which each school district shall be entitled in each~~
17 ~~such county on the basis of the gross receipts received by such company in each school district.~~
18 ~~The county auditor shall extend such tax on his books and certify the same to the county~~
19 ~~treasurer and certify the amount to the company by July first.~~

20 Section 33. That § 10-33-25 be amended to read as follows:

21 10-33-25. The tax levied in § 10-33-21 ~~shall become~~ is due and be payable to the county
22 ~~treasurer of each county in which such company operates and as certified by the secretary of~~
23 ~~revenue and regulation on September first of each year following the filing of the report of such~~
24 ~~gross receipts. The secretary of revenue and regulation shall deposit the taxes paid pursuant to~~

1 § 10-33-21 in the school district other revenue fund.

2 Section 34. That § 10-33-28 be repealed.

3 ~~—10-33-28. The county treasurer shall allocate and transmit the taxes imposed by § 10-33-21~~
4 ~~and collected from each such company to the school treasurers of each school district in which~~
5 ~~such company operates on the basis of the gross receipts received by such company from its~~
6 ~~operations within each such school district within the county.~~

7 Section 35. That § 10-36-7 be amended to read as follows:

8 10-36-7. The secretary of revenue and regulation shall compute ~~and determine~~ the amount
9 of tax to be paid by ~~such~~ each company as provided in § 10-36-6 and shall ~~on or before July first~~
10 ~~following~~ certify to the county auditor of each county in the state in which such company
11 operates the amount of the tax to be paid in such county on the basis of the gross receipts
12 received by such company from its operations in such county and shall further certify to the
13 county auditor the amount to which each school district shall be entitled in each such county on
14 the basis of the gross receipts received by such company in each school district. The county
15 auditor shall extend such tax on his books and certify the same to the county treasurer certify
16 the amount to the company by July first.

17 Section 36. That § 10-36-8 be amended to read as follows:

18 10-36-8. The tax levied by § 10-36-6 ~~shall become~~ is due and be payable to the county
19 treasurer of each county in which such company operates and as certified by the secretary of
20 revenue and regulation on September first of each year following the filing of the report of ~~such~~
21 gross receipts. The secretary of revenue and regulation shall deposit the taxes paid pursuant to
22 § 10-36-6 in the school district other revenue fund.

23 Section 37. That § 10-36-10 be repealed.

24 ~~—10-36-10. The county treasurer shall allocate and transmit the taxes collected from each such~~

1 ~~company to the school treasurers of each school district in which such company operates on the~~
2 ~~basis of the gross receipts received by such company from its operations within each such~~
3 ~~school district within the county.~~

4 Section 38. That § 10-43-76 be amended to read as follows:

5 10-43-76. Upon the receipt of the funds referred to in this chapter, the secretary of revenue
6 and regulation shall deposit ninety-five percent of the taxes paid by banks organized under
7 §§ 51A-2-38 to 51A-2-43, inclusive, and twenty-six and two-thirds percent of all other revenue
8 to the general fund. The secretary of revenue and regulation shall remit the remainder excluding
9 the amount assigned to school districts pursuant to § 10-43-77, on or before February first of
10 each year, to the county treasurer of the county wherein is situated the bank or financial
11 institution remitting the tax. However, the remittance of tax from all branch banks, branch
12 offices, or branches of other financial institutions subject to this tax shall be separated from the
13 remittance of the parent bank or financial institution and shall be remitted to the county treasurer
14 of the county wherein said branch bank, branch office, or financial institution is located.

15 Section 39. That § 10-43-77 be amended to read as follows:

16 10-43-77. The county treasurer upon receipt of the funds, remitted to the county pursuant
17 to §§ 10-43-75.1 and 10-45-76, shall apportion and distribute the funds between the taxing
18 subdivisions, including the county and excluding the school districts, in the same proportion as
19 the average of personal property taxes assessed in each taxing subdivision, including the county
20 and the school districts, for calendar years 1972, 1973, 1974, 1975, and 1976 were distributed
21 as determined and certified by the secretary of revenue and regulation.

22 The county treasurer shall certify to the secretary of revenue and regulation the proportion
23 of personal property taxes assessed that is assigned to the school districts under the provisions
24 of this section. For any school district affected by a consolidation on or after July 1, 2003, as

1 defined in § 13-6-1, the successor school district shall ~~receive~~ be assigned the funds ~~allocated~~
2 assigned to each of the former school districts. For any school district eliminated or subdivided
3 by a reorganization on or after July 1, 2003, as defined in § 13-6-1, each successor school
4 district shall ~~receive~~ be assigned a portion of the funds allocated to the former school district.
5 Each successor school district's portion of the funds shall be based upon the percentage of the
6 total taxable valuation of the former school district transferred to the successor school district,
7 at the time of the reorganization. The secretary of revenue and regulation shall determine the
8 amount of funds assigned to school districts and shall deposit those funds in the school district
9 other revenue fund. Any amount received by the county and taxing subdivisions pursuant to this
10 section may upon receipt be used to support the functions of such taxing subdivision.

11 Section 40. That § 10-6-22 be amended to read as follows:

12 10-6-22. The director of equalization shall ~~forthwith~~ notify the state's attorney of any ~~such~~
13 delinquency or offense as described by § 10-6-21 and ~~he~~ the state's attorney shall prosecute ~~such~~
14 the offender to final judgment and execution, and ~~such any~~ any fine ~~when~~ collected shall be paid into
15 the county treasury ~~for the use of the public schools.~~ The county treasurer shall remit those
16 revenues to the state treasurer for deposit into the school district other revenue fund.

17 Section 41. That § 23A-27-25 be amended to read as follows:

18 23A-27-25. All fines and pecuniary penalties, other than forfeitures provided for in § 23A-
19 43-23, costs as provided in §§ 23-3-52, 23A-27-26, and 23A-27-27, restitution and civil
20 penalties assessed under the state's environmental laws, for the violation of any state law, when
21 collected, shall be paid into the treasury of the proper county, ~~the net proceeds of which shall~~
22 ~~be applied and used each year for the benefit of the public schools of this state.~~ The county
23 treasurer shall remit those revenues to the state treasurer for deposit into the school district other
24 revenue fund.

1 Section 42. That § 10-59-1 be amended to read as follows:

2 10-59-1. The provisions of this chapter apply to any taxes or fees or persons subject to taxes
3 or fees imposed by, and to any civil or criminal investigation authorized by, chapters 10-33, 10-
4 36, 10-39, 10-39A, 10-39B, 10-43, 10-45, 10-45D, 10-46, 10-46A, 10-46B, 10-46C, 10-46E,
5 10-47B, 10-52, 10-52A, 32-3, 32-3A, 32-5, 32-5B, 32-6B, 32-9, 32-10, and 34A-13 and §§ 22-
6 25-48, 49-31-51, 50-4-13 to 50-4-17, inclusive, and the provisions of chapter 10-45B.

7 Section 43. That § 13-16-26 be amended to read as follows:

8 13-16-26. All or any part of a surplus of any school district fund, except the capital outlay
9 fund provided by §§ 13-16-6 to 13-16-9, inclusive, and the special education fund provided by
10 § 13-37-16 may be transferred to any other school district fund. ~~However, any~~ Only a school
11 district with a plan for reorganization that has been approved by the voters pursuant to § 13-6-47
12 may transfer all or any part of a surplus in the capital outlay fund to the general fund. Any
13 unused portion of money that has been transferred into the special education fund may be
14 transferred from the special education fund within the current fiscal year to the fund from which
15 it originated. All or any part of any school district fund may be loaned to any other school
16 district fund for a term not to exceed twenty-four months.

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

497N0114

HOUSE EDUCATION COMMITTEE ENGROSSED NO.

HB 1113 - 02/15/2007

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

Introduced by: Representatives Weems, Elliott, Heineman, Miles, Rounds, Thompson, Van Etten, and Willadsen and Senators Olson (Ed), Dempster, Gant, Garnos, Katus, Peterson (Jim), and Two Bulls

1 FOR AN ACT ENTITLED, An Act to prohibit school districts from granting credit for distance
2 learning courses offered through entities other than the South Dakota Virtual High School.

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

4 Section 1. That chapter 13-33 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 No school district may grant credit for any course successfully completed through distance
7 learning as defined in § 13-33-20 unless the course is offered through the South Dakota Virtual
8 High School.

9 However, a school district may grant credit for a distance learning course offered through
10 an entity other than the South Dakota Virtual High School if any of the following conditions
11 apply:

12 (1) The course is provided through an agreement among accredited school districts;

13 (2) The course is a university course taken by a student who is dually enrolled pursuant
14 to the provisions of § 13-28-37;



- 1 (3) The course was previously taken through an accredited high school or other
2 accredited provider by a student who subsequently transferred into the school district;
3 or
4 (4) The course is not available through the South Dakota Virtual High School and is pre-
5 approved by the secretary of education.

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

970N0498

SENATE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1117 - 02/12/2007

Introduced by: Representatives Novstrup (David), Boomgarden, Cutler, Engels, Feinstein, Gillespie, Halverson, Hanks, Hargens, Krebs, McLaughlin, Miles, Novstrup (Al), and Peters and Senators Albers, Bartling, Dempster, Gray, Heidepriem, Hunhoff, Koetzle, Nesselhuf, Olson (Ed), Schmidt, Sutton, and Turbak

1 FOR AN ACT ENTITLED, An Act to permit the extending of the duration of stalking and
2 protection orders.

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

4 Section 1. That § 25-10-1 be amended to read as follows:

5 25-10-1. Terms used in this chapter mean:

6 (1) "Domestic abuse," physical harm, bodily injury, or attempts to cause physical harm
7 or bodily injury, or the infliction of fear of imminent physical harm or bodily injury
8 between family or household members. Any violation of § 25-10-13 or chapter 22-
9 19A or any crime of violence as defined in subdivision 22-1-2(9) constitutes
10 domestic abuse if the underlying criminal act is committed between family or
11 household members;

12 (2) "Family or household members," spouses, former spouses, or persons related by
13 consanguinity, adoption, or law, persons living in the same household, persons who
14 have lived together, or persons who have had a child together;



1 (3) "Protection order," an order restraining any family or household member from
2 committing any act of domestic abuse or an order excluding any family or household
3 member from the dwelling or residence of another family or household member,
4 whether or not the dwelling or residence is shared. A protection order has a duration
5 of ~~three~~ five years or less; and

6 (4) "Temporary protection order," an order restraining any family or household member
7 from committing any act of domestic abuse or an order excluding any family or
8 household member from the dwelling or residence of another family or household
9 member, whether or not the dwelling or residence is shared. A temporary protection
10 order has a duration of thirty days except as provided in § 25-10-7.1.

11 Section 2. That § 22-19A-11 be amended to read as follows:

12 22-19A-11. Upon notice and a hearing, if the court finds by a preponderance of the evidence
13 that stalking has taken place, the court may provide relief as follows:

- 14 (1) Restrain any party from committing acts of stalking or physical injury as a result of
15 an assault or a crime of violence as defined in subdivision 22-1-2(9);
- 16 (2) Order other relief as the court deems necessary for the protection of the person
17 seeking the protection order, including orders or directives to law enforcement
18 officials.

19 Any relief granted by the order for protection shall be for a fixed period and may not exceed
20 ~~three~~ five years.

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

951N0146

SENATE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1119 - 02/12/2007

Introduced by: Representatives Lust, Cutler, Dreyer, Elliott, Feinstein, Kirkeby, McLaughlin, Nygaard, Peters, and Rausch and Senators McCracken, Hoerth, Katus, Knudson, McNenny, and Schmidt

1 FOR AN ACT ENTITLED, An Act to revise certain provisions concerning mechanics' or
2 materialmen's liens.

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

4 Section 1. That § 44-9-26 be amended to read as follows:

5 44-9-26. Upon written demand ~~of~~by the owner, ~~his~~the owner's agent, or contractor, served
6 on any person holding a lien, requiring ~~him~~the person to commence suit to enforce ~~such~~the
7 lien, ~~such suit shall be commenced~~the person shall commence suit within thirty days after such
8 service; or the lien ~~shall be~~is forfeited. The register of deeds shall cancel the lien of record, if
9 the owner, the owner's agent, or contractor files no sooner than the fortieth day following service
10 of the written demand:

11 (1) An affidavit stating that the person holding the lien has not commenced suit to
12 enforce the lien within thirty days after the service of the written demand;

13 (2) A copy of the written demand that was served on the person holding the lien; and

14 (3) Proof of service on the person holding the lien.



State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

596N0597

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1171** - 02/14/2007

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

Introduced by: Representatives Rhoden, Brunner, Deadrick, Dykstra, Faehn, Krebs, Rave,
and Turbiville

1 FOR AN ACT ENTITLED, An Act to enhance education in the state and to make an
2 appropriation therefor.

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

4 Section 1. There is hereby created in the state treasury the education enhancement tobacco
5 tax fund.

6 Section 2. That § 10-50-52 be amended to read as follows:

7 10-50-52. The first thirty million dollars in revenue collected annually pursuant to this
8 chapter shall be deposited in the general fund. All revenue in excess of thirty million dollars
9 collected annually shall be deposited in the tobacco prevention and reduction trust fund. Five
10 million dollars of the revenue deposited annually in the tobacco prevention and reduction trust
11 fund pursuant to this section shall be used to implement the tobacco prevention and reduction
12 program. Thirty-three percent of any revenue deposited in the tobacco prevention and reduction
13 trust fund in excess of five million dollars shall be transferred to the property tax reduction fund.
14 Thirty-three percent of any revenue deposited in the tobacco prevention and reduction trust fund



1 in excess of five million dollars shall be transferred to the education enhancement ~~trust~~ tobacco
2 tax fund. Thirty-four percent of any revenue deposited in the tobacco prevention and reduction
3 trust fund in excess of five million dollars shall be transferred to the health care ~~trust~~ tobacco
4 tax fund.

5 Section 3. There is hereby created the teacher compensation assistance program within the
6 Department of Education to provide funds to school districts for the purpose of assisting school
7 districts with teacher compensation. The department shall provide four-fifths of the funds for
8 the teacher compensation assistance program to each participating school district. The Board
9 of Education shall promulgate rules, pursuant to chapter 1-26, to create an oversight board
10 appointed by the secretary of education for approval of applications as well as guidelines for
11 district applications based on district instructional goals, teacher performance, market
12 compensation or other specific district requirements as approved by the department.
13 Participation in the program is discretionary. District applications shall be approved by the local
14 board of education. The applications shall be reviewed by the teacher compensation assistance
15 program oversight board and shall be recommended to the Board of Education for final
16 approval.

17 Section 4. The secretary of the Department of Education shall establish seven education
18 service agencies to provide services and leadership to school districts on a regional basis. Each
19 education service agency shall serve the school districts in a particular region of the state as
20 determined by the secretary of education, and the secretary shall ensure that every school district
21 is served by an education service agency. Each education service agency may be incorporated
22 in the state of South Dakota as a nonprofit corporation organized under chapters 47-22 to 47-28,
23 inclusive, which is exempt from taxation pursuant to 501(a) of the Internal Revenue Code, 26
24 U.S.C. Section 501(a), and may be listed as an exempt organization in Section 501(c) of the

1 Internal Revenue Code, 26 U.S.C. Section 501(c), or an education service agency may be
2 directed by an educational cooperative.

3 Section 5. Education service agencies are hereby authorized and empowered to develop,
4 manage, and provide support services and programs as determined by the needs of the local
5 school districts and as approved by the secretary of education. An education service agency may:

6 (1) Act primarily as a service agency in providing services and programs as identified
7 and requested by the school districts it serves, including professional development,
8 instructional materials, educational technology, curriculum development, and
9 alternative educational programs;

10 (2) Provide for economy, efficiency, and cost effectiveness in the cooperative delivery
11 and purchase or lease of educational services, materials, and products; the services
12 may include purchasing cooperatives, insurance cooperatives, business management
13 services, auditing and accounting services, school safety and risk prevention training,
14 data processing, and assistance with student records;

15 (3) Provide administrative services such as communications and public relations
16 services, employee background checks, grants management services, printing and
17 publication services, and internship services;

18 (4) Provide educational services through leadership and research and development in
19 elementary and secondary education;

20 (5) Work cooperatively with the Department of Education, institutions of higher
21 education, local school districts, and other educational organizations to support,
22 develop, and implement long-range plans and strategic goals for the enhancement of
23 educational opportunities in elementary and secondary education; and

24 (6) Serve, when appropriate and if funds are available, as a repository, clearinghouse,

1 and administrator of federal, state, local, and private funds on behalf of school
2 districts that may participate in special programs, projects, or grants in order to
3 enhance the quality of education in South Dakota schools.

4 Section 6. Each education service agency shall have an advisory board. The advisory board
5 shall meet at least twice a year, and its membership shall include the superintendent or a
6 designee of the superintendent from every school district served by the agency. The advisory
7 board shall provide guidance to the agency relative to the needs of the school districts and how
8 the education service agency might address those needs.

9 Section 7. Beginning in 2008, the advisory board for each education service agency shall,
10 upon receiving the approval of the secretary of education, appoint a fiscal agent to oversee the
11 daily operations of the education service agency. Once appointed, the fiscal agent shall serve
12 at the pleasure of the board. However, a board's decision to rescind a fiscal agent's appointment
13 shall be approved by the secretary of education.

14 Section 8. A statewide leadership board, composed of the fiscal agent from each education
15 service agency and a representative from the Department of Education, shall be created to
16 establish uniform policies among the education service agencies and to allow for
17 communication and the exchange of ideas.

18 Section 9. Upon receiving approval from the Department of Education, each education
19 service agency, with input from both the advisory board and the statewide leadership board,
20 may, as funding permits, contract with other entities to provide services to the school districts
21 it serves.

22 Section 10. Each year, the Department of Education shall conduct an assessment and a
23 performance evaluation of each education service agency and submit its findings in writing to
24 the Legislature.

1 Section 11. The South Dakota Board of Education shall promulgate rules pursuant to chapter
2 1-26 establishing the evaluation process and the criteria and performance measures the
3 department will use to evaluate the education service agencies.

4 Section 12. The secretary of the Department of Education shall approve vouchers and the
5 state auditor shall draw warrants to pay expenditures authorized by this Act.

6 Section 13. For the fiscal year beginning on July 1, 2007, there is hereby appropriated from
7 the education enhancement tobacco tax fund the sum of nine million dollars (\$9,000,000), or
8 so much thereof as may be necessary, to the Department of Education and shall be distributed
9 as follows:

- 10 (1) One million dollars for the teacher compensation assistance program created in
11 section 3 of this Act;
- 12 (2) One million seven hundred thousand dollars for the education service agencies
13 established in section 4 of this Act;
- 14 (3) One million five hundred thousand dollars for career and technical education
15 programs;
- 16 (4) Three million one hundred thousand dollars to apply to any increases in the total cost
17 of foundation program state aid or other educational programs that resulted from
18 legislation enacted during the Eighty-Second Session of the South Dakota Legislature
19 based on the findings of the two-year study of school funding that was undertaken by
20 the Department of Education in 2005; and
- 21 (5) One million seven hundred thousand dollars to be distributed to school districts on
22 the basis of fall enrollment as defined by this Act.

23 Section 14. For the fiscal year beginning on July 1, 2007, there is hereby appropriated from
24 the general fund the sum of five million dollars (\$5,000,000), or so much thereof as may be

1 necessary, to the Department of Education and shall be distributed as follows:

2 (1) Four million dollars for the teacher compensation assistance program created in
3 section 3 of this Act; and

4 (2) One million dollars for career and technical education programs.

5 Section 15. For the fiscal year beginning on July 1, 2008 and for each fiscal year thereafter,
6 the secretary of education shall expend the monies deposited in the education enhancement
7 tobacco tax fund through the normal budget process as set forth in § 4-7-9. Expenditures from
8 the fund shall support the following education programs:

9 (1) The teacher compensation assistance program created in section 3 of this Act;

10 (2) The education service agencies established in section 4 of this Act;

11 (3) Career and technical education programs; and

12 (4) Other education program expenditures as set forth by the Legislature.

13 Section 16. For the purposes of this Act, fall enrollment is the number of kindergarten
14 through twelfth grade students enrolled in all schools operated by the school district on the last
15 Friday of September of the previous school year minus the number of students for whom the
16 district receives tuition, except nonresident students who are in the care and custody of a state
17 agency and are attending a public school and students for whom tuition is being paid pursuant
18 to § 13-28-42.1, plus the number of students for whom the district pays tuition.

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

983N0165

HOUSE APPROPRIATIONS COMMITTEE ENGROSSED

NO. **HB 1246** - 02/15/2007

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

Introduced by: Representatives Olson (Ryan), Novstrup (Al), and Weems and Senators Olson (Ed) and Smidt (Orville)

1 FOR AN ACT ENTITLED, An Act to make an appropriation for the costs related to the
2 intensive methamphetamine treatment program in the women's state correctional system.

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

4 Section 1. There is hereby appropriated from the general fund the sum of four hundred
5 ninety five thousand four hundred eighty nine dollars (\$495,489), or so much thereof as may be
6 necessary, six hundred forty thousand dollars (\$640,000) in other fund expenditure authority,
7 or so much thereof as may be necessary, and 6.0 FTEs to the Department of Human Services
8 for costs related to the intensive methamphetamine treatment program in the women's state
9 correctional system.

10 Section 2. There is hereby appropriated from the general fund the sum of ninety-six
11 thousand one hundred fifty-one dollars (\$96,151), or so much thereof as may be necessary, five
12 hundred forty-four thousand one hundred two dollars (\$544,102) in other fund expenditure
13 authority, or so much thereof as may be necessary, and 9.0 FTEs to the Department of
14 Corrections for costs related to the intensive methamphetamine treatment program in the



1 women's state correctional system.

2 Section 3. There is hereby appropriated from the general fund the sum of fifty one thousand
3 one hundred thirty-six dollars (\$51,136) in other fund expenditure authority, or so much thereof
4 as may be necessary, and 1.0 FTE to the Department of Health for costs related to the intensive
5 methamphetamine treatment program in the women's state correctional system.

6 Section 4. The secretary of the Department of Human Services, the secretary of the
7 Department of Corrections, or the secretary of the Department of Health shall approve vouchers
8 and the state auditor shall draw warrants to pay expenditures authorized by this Act.

9 Section 5. Any amounts appropriated in this Act not lawfully expended or obligated by
10 June 30, 2008, shall revert in accordance with § 4-8-21.

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

449N0725 HOUSE APPROPRIATIONS COMMITTEE ENGROSSED
NO. **HB 1250** - 02/14/2007

Introduced by: Representatives Dennert, Burg, Carson, Davis, Glenski, Hargens, Haverly, Miles, Moore, Putnam, Rausch, and Tidemann and Senators Hunhoff, Bartling, Dempster, Duenwald, Garnos, Hauge, Hoerth, Hundstad, Maher, Napoli, Smidt (Orville), and Sutton

1 FOR AN ACT ENTITLED, An Act to revise the process regarding cochlear implants.

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

3 Section 1. That § 49-31-50 be amended to read as follows:

4 49-31-50. There is created in the state treasury the telecommunication fund for the deaf and
5 the telecommunication fund for other disabilities for the deposit and disbursement of money
6 collected under §§ 49-31-49 and 49-31-51. There is hereby continuously appropriated the sum
7 of two hundred thousand dollars (\$200,000), or so much thereof as may be necessary, each year
8 from the telecommunication fund for the deaf to the Department of Human Services to provide
9 one or two cochlear implants to children who are less than five years of age and who suffer any
10 child who suffers from severe to profound hearing loss. The child shall be less than five years
11 of age at the time of the first implant. However, if the child has a documented progressive
12 hearing loss that leads to deafness after speech and language are developed, the child may be
13 less than twenty-one years of age at the time of the implant.



State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

505N0735 **HOUSE APPROPRIATIONS COMMITTEE ENGROSSED**
NO. HB 1258 - 02/14/2007

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

Introduced by: Representatives Buckingham, Dykstra, Lust, McLaughlin, Nygaard, Pederson (Gordon), Pitts, Rounds, Turbiville, and Van Norman and Senators Duenwald, Greenfield, Katus, McCracken, and Smidt (Orville)

1 FOR AN ACT ENTITLED, An Act to create an intensive methamphetamine treatment program
2 and revise the General Appropriations Act for fiscal year 2007, and to declare an emergency.

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

4 Section 1. The Department of Corrections, the Department of Health, and the Department
5 of Human Services may create a program for the purpose of providing intensive
6 methamphetamine treatment for females in the state correctional system.

7 Section 2. That section 8 of chapter 26 of the 2006 Session Laws be amended to read as
8 follows:

9 DEPARTMENT OF HEALTH

10 Correctional Health

11 F.T.E., delete "71.0" and insert "72.0"

12 Adjust all totals accordingly.

13 Section 3. That section 16 of chapter 26 of the 2006 Session Laws be amended to read as
14 follows:



1 DEPARTMENT OF CORRECTIONS

2 Community Services

3 Personal Services, Other Funds, delete "\$1,557,291" and insert "\$1,842,291"

4 Operating Expenses, Other Funds, delete "\$1,441,478" and insert "\$1,666,478"

5 F.T.E., delete "82.5" and insert "89.3"

6 Adjust all totals accordingly.

7 Section 4. That section 17 of chapter 26 of the 2006 Session Laws be amended to read as
8 follows:

9 DEPARTMENT OF HUMAN SERVICES

10 Alcohol & Drug Abuse

11 Personal Services, Other Funds, delete "\$3,678" and insert "\$177,095"

12 Operating Expenses, Other Funds, delete "\$264,286" and insert "\$577,915"

13 F.T.E., delete "49.0" and insert "54.0"

14 Adjust all totals accordingly.

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

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

893N0727

HOUSE EDUCATION COMMITTEE ENGROSSED NO.

HB 1268 - 02/15/2007

Introduced by: Representatives Heineman and Olson (Ryan) and Senators Olson (Ed), Gant, Gray, Heidepriem, Hoerth, Kloucek, Maher, Nesselhuf, and Turbak

1 FOR AN ACT ENTITLED, An Act to appropriate money for Teach for America.

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

3 Section 1. There is hereby appropriated from the general fund the sum of one dollar (\$1),
4 or so much thereof as may be necessary, to the Department of Education to provide funding to
5 support the expansion of the Teach for America program in South Dakota.

6 Section 2. The secretary of education shall approve vouchers and the state auditor shall draw
7 warrants to pay expenditures authorized by this Act.

8 Section 3. Any amounts appropriated in this Act not lawfully expended or obligated by
9 June 30, 2008, shall revert in accordance with § 4-8-21.



State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

636N0487

HOUSE APPROPRIATIONS COMMITTEE ENGROSSED

NO. **HB 1271** - 02/14/2007

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

Introduced by: Representatives Krebs, Cutler, Deadrick, Elliott, Faehn, Gassman, Gilson, Halverson, Novstrup (Al), Olson (Russell), Turbiville, and Willadsen and Senators Knudson, Dempster, Duenwald, Garnos, Gray, Greenfield, Hansen (Tom), Hoerth, Jerstad, McCracken, Napoli, Nesselhuf, Olson (Ed), Peterson (Jim), and Smidt (Orville)

1 FOR AN ACT ENTITLED, An Act to create a drug court program in the Unified Judicial
2 System and make an appropriation therefor.

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

4 Section 1. The Unified Judicial System may create a drug court program for the purpose of
5 providing intensive, supervised rehabilitation to nonviolent adult felony offenders who abuse
6 controlled substances.

7 Section 2. There is hereby appropriated from the general fund the sum of two hundred
8 twelve thousand one hundred ninety three dollars (\$212,193), or so much thereof as may be
9 necessary, and 3.0 FTEs to the Unified Judicial System for costs related to the drug court
10 program.

11 Section 3. The state court administrator shall approve vouchers and the state auditor shall
12 draw warrants to pay expenditures authorized by this Act.

13 Section 4. Any amounts appropriated in this Act not lawfully expended or obligated by



1 June 30, 2008, shall revert in accordance with § 4-8-21.

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

875N0749

HOUSE EDUCATION COMMITTEE ENGROSSED NO.

HB 1276 - 02/15/2007

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

Introduced by: Representatives Rave, Deadrick, Jerke, Juhnke, Putnam, and Rounds and
Senators Hunhoff, Bartling, and Olson (Ed)

1 FOR AN ACT ENTITLED, An Act to create the Prairie High School District.

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

3 Section 1. There is hereby created a special high school district known as the Prairie High
4 School District. The primary purpose of the special high school district is to provide a high
5 school education to students located in rural areas of the state through the use of technology,
6 teachers, and tutors.

7 The Prairie High School District shall meet the following requirements:

8 (1) The special high school district shall educate, primarily through the use of
9 technology, any South Dakota student in grades nine through twelve who chooses to
10 enroll;

11 (2) The special high school district may have no physical boundaries and may not
12 contain any real property subject to ad valorem taxes pursuant to chapter 10-4; and

13 (3) The special high school district shall have attendance centers that are equipped with
14 the technology necessary to provide distance learning as defined in § 13-33-20 to



1 high school students, and are located in or adjacent to existing public attendance
2 centers that serve students in kindergarten through eighth grade.

3 Section 2. Any student attending an attendance center operated by the Prairie High School
4 District shall be accounted for and identified in the same manner as any other student attending
5 a public school in South Dakota.

6 Section 3. The Prairie High School District is entitled to receive foundation program state
7 aid distributed to school districts in accordance with the provisions of chapter 13-13, and state
8 aid for special education distributed to school districts in accordance with the provisions of
9 chapter 13-37. For the purposes of calculating foundation program state aid pursuant to chapter
10 13-13, the adjusted average daily membership of the Prairie High School District is equal to its
11 average daily membership.

12 Section 4. The Prairie High School District is not entitled to receive funds from any county
13 general school fund distributed pursuant to § 13-13-5, the net proceeds of any fines and
14 pecuniary penalties distributed pursuant to § 23A-27-25, the proceeds from any gross receipts
15 taxes distributed pursuant to § 10-33-24 or 10-36-10, the proceeds from any bank franchise
16 taxes distributed pursuant to § 10-43-77, or the net proceeds from any mobile home taxes
17 distributed pursuant to § 10-9-14. For purposes of distributing funds pursuant to S.D. Const.,
18 Art. VIII, Sect. 3, the Prairie High School District is not a public school corporation.

19 Section 5. Notwithstanding the provisions of chapters 13-7 and 13-8, the secretary of
20 education shall appoint the president of the school board of the Prairie High School District, and
21 the president shall appoint at least four, but no more than eight, additional school board
22 members.

23 Section 6. Notwithstanding the provisions of § 13-36-7, no student enrolled in the Prairie
24 High School District is eligible to participate in any interscholastic activity sponsored by the

1 South Dakota High School Activities Association.

2 Section 7. Since the Prairie High School District may not levy taxes to establish any special
3 funds, the special high school district may use general funds to pay for expenses that in other
4 school districts are paid from the special education fund pursuant to § 13-37-16 or the capital
5 outlay fund pursuant to § 13-16-6.

6 Section 8. Except as provided in this Act, the Prairie High School District is subject to all
7 laws under Title 13 and all rules authorized under Title 13 that govern public high schools and
8 school districts in the state.

9 Section 9. The South Dakota Board of Education shall promulgate rules, pursuant to chapter
10 1-26, to define the technological needs of each of the attendance centers, to establish the
11 procedures and timelines for the selection of the school board president and the other school
12 board members, and to establish other policies and procedures necessary to allow the special
13 high school district to fulfill its intended purpose.

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

400N0664 **HOUSE EDUCATION COMMITTEE ENGROSSED NO.**
HB 1290 - 02/15/2007

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

1 FOR AN ACT ENTITLED, An Act to provide for an Office of Indian Education and an Indian
2 Education Advisory Council and to establish certain provisions to enhance Indian education
3 in the state.

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

5 Section 1. The Office of Indian Education is hereby established within the Department of
6 Education. The Office of Indian Education shall support initiatives in order that South Dakota's
7 students and public school instructional staff become aware of and gain an appreciation of South
8 Dakota's unique American Indian culture. The secretary of the Department of Education shall
9 appoint an Indian Education Advisory Council. The council shall consist of representatives of
10 all nine tribes in South Dakota along with Native American educators from all parts of the state.
11 The nine representatives of the tribes shall be appointed from nominations submitted by the
12 tribal councils of each of the tribes. The council members shall serve for three-year terms.

13 Section 2. All teachers new to the profession, from out-of-state, or certified after 1993 shall
14 complete a three-hour course in South Dakota Indian studies. The course shall include
15 components specific to:



- 1 (1) Language and cultural awareness;
- 2 (2) History;
- 3 (3) Educational theory and background of the traditional tribal education; and
- 4 (4) Implementation and strategies of Indian learning styles, curriculum development and
- 5 authentic assessment.

6 Section 3. The Department of Education, in cooperation with the Indian Education Advisory
7 Council created in section 1 of this Act, shall develop course content for curriculum and
8 coursework in South Dakota American Indian history and culture.

9 Section 4. The South Dakota American Indian language revitalization program is hereby
10 established. The Office of Indian Education shall develop a pilot program to offer instruction
11 in the Lakota language to educators of South Dakota American Indian students. The pilot
12 program may be extended to offer instruction in the Lakota language directly to South Dakota
13 American Indian students. The Office of Indian Education shall provide a report on the status
14 of the development and implementation of the South Dakota American Indian language
15 revitalization program to the 2008 Legislature.

16 Section 5. The Board of Education may promulgate rules pursuant to chapter 1-26 to provide
17 for curriculum and coursework in South Dakota American Indian history and culture.

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

400N0665

HOUSE EDUCATION COMMITTEE ENGROSSED NO.

HB 1291 - 02/15/2007

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

1 FOR AN ACT ENTITLED, An Act to create a teacher compensation assistance program.

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

3 Section 1. There is hereby created the teacher compensation assistance program within the
4 Department of Education to provide funds to school districts for the purpose of assisting school
5 districts with teacher compensation. The department shall provide four-fifths of the funds for
6 the teacher compensation assistance program to each participating school district. The Board
7 of Education shall promulgate rules, pursuant to chapter 1-26, to create an oversight board
8 appointed by the secretary of education for approval of applications as well as guidelines for
9 district applications based on district instructional goals, teacher performance, or market
10 compensation or other specific district requirements as approved by the department.
11 Participation in the program is discretionary. District applications shall be approved by the local
12 board of education. The applications shall be reviewed by the teacher compensation assistance
13 program oversight board and shall be recommended to the Board of Education for final
14 approval.



State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

983N0164

HOUSE EDUCATION COMMITTEE ENGROSSED NO.

HB 1307 - 02/13/2007

Introduced by: Representatives Olson (Ryan), Novstrup (Al), and Weems and Senators Gray and Garnos

1 FOR AN ACT ENTITLED, An Act to appropriate money to pay for the development of end of
2 course exams.

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

4 Section 1. There is hereby appropriated from the general fund, after the transfer of earnings
5 from the education enhancement trust fund created in S. D. Const., Art. XII, § 6, pursuant to § 4-
6 5-29.2, the sum of one dollar (\$1), or so much thereof as may be necessary, to the Department
7 of Education to pay for the development of end of course exams.

8 Section 2. The secretary of education shall approve vouchers and the state auditor shall draw
9 warrants to pay expenditures authorized by this Act.

10 Section 3. Any amounts appropriated in this Act not lawfully expended or obligated by
11 June 30, 2008, shall revert in accordance with § 4-8-21.



State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

465N0730

HOUSE TAXATION COMMITTEE ENGROSSED NO.

HB 1308 - 02/15/2007

Introduced by: Representative Novstrup (Al) and Senators Turbak and Peterson (Jim)

1 FOR AN ACT ENTITLED, An Act to revise certain provisions concerning the valuation of real
2 property by allowing the director of equalization to use more sales during the assessment
3 process and to revise certain provisions regarding taxes payable for special education and
4 the capital outlay fund of school districts.

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

6 Section 1. That § 10-6-74 be amended to read as follows:

7 10-6-74. Any real property which sells for more than one hundred ~~fifty~~ seventy-five percent
8 of its assessed value, may not be used for the purpose of valuing other real property. The sale
9 of any real property which is not used for the purpose of valuing other real property pursuant
10 to this section may not be used in any sales ratio study.

11 Section 2. That § 10-6-33.14 be amended to read as follows:

12 10-6-33.14. Any agricultural land, as defined in § 10-6-31.3, which sells for more than one
13 hundred ~~fifty~~ seventy-five percent of its agricultural income value, is hereby classified for
14 purposes of ad valorem taxation as a nonagricultural acreage. However, any agricultural land
15 that is converted to use other than agricultural before the next legal assessment date shall be



1 classified according to its actual use. The agricultural income value shall be determined pursuant
2 to § 10-6-33.15.

3 Section 3. That § 10-6-33.15 be amended to read as follows:

4 10-6-33.15. For the purposes of § 10-6-33.14, the agricultural income value shall be
5 determined using capitalized actual annual cash rent. The actual annual cash rent is the actual
6 annual cash rent, excluding the actual per acre tax on agricultural land, determined through an
7 analysis of actual arm's length rental agreements collected within the county in the year prior
8 to the year for which the income value is being determined. The annual cash rent shall be
9 capitalized at ~~seven and three-fourths~~ six and seven hundredths percent.

10 Section 4. That § 10-6-74 be amended to read as follows:

11 10-6-74. Any real property which sells for more than ~~one hundred fifty~~ two hundred percent
12 of its assessed value, may not be used for the purpose of valuing other real property. The sale
13 of any real property which is not used for the purpose of valuing other real property pursuant
14 to this section may not be used in any sales ratio study.

15 Section 5. That § 10-6-33.14 be amended to read as follows:

16 10-6-33.14. Any agricultural land, as defined in § 10-6-31.3, which sells for more than ~~one~~
17 ~~hundred fifty~~ two hundred percent of its agricultural income value, is hereby classified for
18 purposes of ad valorem taxation as a nonagricultural acreage. However, any agricultural land
19 that is converted to use other than agricultural before the next legal assessment date shall be
20 classified according to its actual use. The agricultural income value shall be determined pursuant
21 to § 10-6-33.15.

22 Section 6. Sections 4 and 5 are effective on July 1, 2008.

23 Section 7. That § 10-6-74 be amended to read as follows:

24 10-6-74. Any real property which sells for more than ~~one hundred fifty~~ two hundred twenty-

1 five percent of its assessed value, may not be used for the purpose of valuing other real property.
2 The sale of any real property which is not used for the purpose of valuing other real property
3 pursuant to this section may not be used in any sales ratio study.

4 Section 8. That § 10-6-33.14 be amended to read as follows:

5 10-6-33.14. Any agricultural land, as defined in § 10-6-31.3, which sells for more than ~~one~~
6 ~~hundred fifty~~ two hundred twenty-five percent of its agricultural income value, is hereby
7 classified for purposes of ad valorem taxation as a nonagricultural acreage. However, any
8 agricultural land that is converted to use other than agricultural before the next legal assessment
9 date shall be classified according to its actual use. The agricultural income value shall be
10 determined pursuant to § 10-6-33.15.

11 Section 9. Sections 7 and 8 are effective on July 1, 2009.

12 Section 10. Section 10-6-74 and §§ 10-6-33.14 to 10-6-33.18, inclusive, are repealed on
13 July 1, 2010.

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

16 Notwithstanding the provisions § 10-6-74 and §§ 10-6-33.14 to 10-6-33.18, inclusive, for
17 the taxes payable in 2009, 2010, 2011, 2012, and 2013, no property's valuation may increase
18 more than fifteen percent per year. However, if the property was changed to another
19 classification of property or any improvement or addition was made to the property, this section
20 does not apply.

21 Section 12. That § 13-16-7 be amended to read as follows:

22 13-16-7. The school board of any school district of this state may at its discretion authorize
23 an annual levy of a tax not to exceed three dollars per thousand dollars of taxable valuation on
24 the taxable valuation of the district for the capital outlay fund for assets as defined by § 13-16-6

1 or for its obligations under a resolution, lease-purchase agreement, capital outlay certificate, or
2 other arrangement with the Health and Educational Facilities Authority. Taxes collected
3 pursuant to such levy may be irrevocably pledged by the school board to the payment of
4 principal of and interest on installment purchase contracts or capital outlay certificates entered
5 into or issued pursuant to § 13-16-6 or 13-16-6.2 or lease-purchase agreements or other
6 arrangement with the Health and Educational Facilities Authority and, so long as any capital
7 outlay certificates are outstanding, installment agreement payments, lease-purchase agreements,
8 or other arrangements are unpaid, the school board of any district may be compelled by
9 mandamus or other appropriate remedy to levy an annual tax sufficient to pay principal and
10 interest thereon, but not to exceed the three dollars per thousand dollars of taxable valuation in
11 any year authorized to be levied hereby.

12 For taxes payable in 2009, the total amount of revenue payable from the levy provided in
13 this section may not increase more than the lesser of three percent or the index factor, as defined
14 in § 10-13-38, over the maximum amount of revenue that could have been generated for the
15 taxes payable in 2008. After applying the index factor, a school district may increase the revenue
16 payable from taxes on real property above the limitations provided by this section by the
17 percentage increase of value resulting from any improvements or change in use of real property,
18 annexation, minor boundary changes, and any adjustments in taxation of real property separately
19 classified and subject to statutory adjustments and reductions under chapters 10-4, 10-6, 10-6A,
20 and 10-6B, except § 10-6-31.4, only if assessed the same as property of equal value. A school
21 district may increase the revenue it receives from taxes on real property above the limit provided
22 by this section for taxes levied to pay the principal, interest, and redemption charges on any
23 bonds issued after January 1, 2007, which are subject to referendum, scheduled payment
24 increases on bonds and for a levy directed by the order of a court for the purpose of paying a

1 judgment against such school district. Any school district created or reorganized after January 1,
2 2007, is exempt from the limitation provided by this section for a period of two years
3 immediately following its creation.

4 For taxes payable in 2010, 2011, 2012, and 2013, the total amount of revenue payable from
5 the levy provided in this section may not increase more than the lesser of three percent or the
6 index factor, as defined in § 10-13-38, over the amount of revenue payable from taxes on real
7 property in the preceding year. After applying the index factor, a school district may increase
8 the revenue payable from taxes on real property above the limitations provided by this section
9 by the percentage increase of value resulting from any improvements or change in use of real
10 property, annexation, minor boundary changes, and any adjustments in taxation of real property
11 separately classified and subject to statutory adjustments and reductions under chapters 10-4,
12 10-6, 10-6A, and 10-6B, except § 10-6-31.4, only if assessed the same as property of equal
13 value. A school district may increase the revenue it receives from taxes on real property above
14 the limit provided by this section for taxes levied to pay the principal, interest, and redemption
15 charges on any bonds issued after January 1, 2007, which are subject to referendum, scheduled
16 payment increases on bonds and for a levy directed by the order of a court for the purpose of
17 paying a judgment against such school district. Any school district created or reorganized after
18 January 1, 2007, is exempt from the limitation provided by this section for a period of two years
19 immediately following its creation.

20 For taxes payable in 2009, 2010, 2011, 2012, and 2013, the levy limitation of three dollars
21 per thousand dollars of taxable valuation does not apply to any school district.

22 Section 13. That § 13-37-16 be amended to read as follows:

23 13-37-16. For taxes payable in 1997, and each year thereafter, the school board shall levy
24 no more than one dollar and forty cents per thousand dollars of taxable valuation, as a special

1 levy in addition to all other levies authorized by law for the amount so determined to be
2 necessary, and such levy shall be spread against all of the taxable property of the district. The
3 proceeds derived from such levy shall constitute a school district special education fund of the
4 district for the payment of costs for the special education of all children in need of special
5 education or special education and related services who reside within the district pursuant to the
6 provisions of §§ 13-37-8.2 to 13-37-8.10, inclusive. The levy in this section shall be based on
7 valuations such that the median level of assessment represents 85% of market value as
8 determined by the Department of Revenue and Regulation. The total amount of taxes that would
9 be generated at the levy pursuant to this section shall be considered local effort. Money in the
10 special education fund may be expended for the purchase or lease of any assistive technology
11 that is directly related to special education and specified in a student's individualized education
12 plan. This section does not apply to real property improvements.

13 For taxes payable in 2009, the total amount of revenue payable from the levy provided in
14 this section may not increase more than the lesser of three percent or the index factor, as defined
15 in § 10-13-38, over the maximum amount of revenue that could have been generated for the
16 taxes payable in 2008. After applying the index factor, a school district may increase the revenue
17 payable from taxes on real property above the limitations provided by this section by the
18 percentage increase of value resulting from any improvements or change in use of real property,
19 annexation, minor boundary changes, and any adjustments in taxation of real property separately
20 classified and subject to statutory adjustments and reductions under chapters 10-4, 10-6, 10-6A,
21 and 10-6B, except § 10-6-31.4, only if assessed the same as property of equal value.

22 Any school district created or reorganized after January 1, 2007, is exempt from the
23 limitation provided by this section for a period of two years immediately following its creation.

24 For taxes payable in 2010, 2011, 2012, and 2013, the total amount of revenue payable from

1 the levy provided in this section may not increase more than the lesser of three percent or the
2 index factor, as defined in § 10-13-38, over the maximum amount of revenue that could have
3 been generated for the taxes payable in 2008 plus any unused index factor from the previous
4 years. After applying the index factor, a school district may increase the revenue payable from
5 taxes on real property above the limitations provided by this section by the percentage increase
6 of value resulting from any improvements or change in use of real property, annexation, minor
7 boundary changes, and any adjustments in taxation of real property separately classified and
8 subject to statutory adjustments and reductions under chapters 10-4, 10-6, 10-6A, and 10-6B,
9 except § 10-6-31.4, only if assessed the same as property of equal value.

10 For taxes payable in 2009, 2010, 2011, 2012, and 2013, the levy limitation of one dollar and
11 forty cents per thousand dollars of taxable valuation does not apply to any school district.

12 Section 14. That § 13-37-35.1 be amended to read as follows:

13 13-37-35.1. Terms used in chapter 13-37 mean:

- 14 (1) "Level one disability," a mild disability;
- 15 (2) "Level two disability," a mental retardation or emotional disorder;
- 16 (3) "Level three disability," hearing impairment, deafness, visual impairment, deaf-
17 blindness, orthopedic impairment, or traumatic brain injury;
- 18 (4) "Level four disability," autism;
- 19 (5) "Level five disability," multiple disabilities;
- 20 (5A) "Level six disability," prolonged assistance;
- 21 (6) "Index factor," is the annual percentage change in the consumer price index for urban
22 wage earners and clerical workers as computed by the Bureau of Labor Statistics of
23 the United States Department of Labor for the year before the year immediately
24 preceding the year of adjustment or three percent, whichever is less;

- 1 (7) "Local effort," shall be calculated for taxes payable in ~~2006 and thereafter using a~~
2 ~~special education levy of one dollar and twenty cents per one thousand dollars of~~
3 ~~valuation~~ 2009, 2010, 2011, 2012, and 2013, as six-sevenths of the amount that could
4 have been generated pursuant to § 13-37-16;
- 5 (8) "Allocation for a student with a level one disability ," for the school fiscal year
6 beginning July 1, 2004, is \$ 3,533.13. For each school year thereafter, the allocation
7 for a student with a level one disability shall be the previous fiscal year's allocation
8 for such child increased by the lesser of the index factor or three percent;
- 9 (9) "Allocation for a student with a level two disability ," for the school fiscal year
10 beginning July 1, 2004, is \$ 8,277.21. For each school year thereafter, the allocation
11 for a student with a level two disability shall be the previous fiscal year's allocation
12 for such child increased by the lesser of the index factor or three percent;
- 13 (10) "Allocation for a student with a level three disability ," for the school fiscal year
14 beginning July 1, 2004, is \$ 12, 580.73. For each school year thereafter, the allocation
15 for a student with a level three disability shall be the previous fiscal year's allocation
16 for such child increased by the lesser of the index factor or three percent;
- 17 (11) "Allocation for a student with a level four disability ," for the school fiscal year
18 beginning July 1, 2004, is \$ 12, 001.80. For each school year thereafter, the allocation
19 for a student with a level four disability shall be the previous fiscal year's allocation
20 for such child increased by the lesser of the index factor or three percent;
- 21 (12) "Allocation for a student with a level five disability ," for the school fiscal year
22 beginning July 1, 2004, is \$ 15, 882.21. For each school year thereafter, the allocation
23 for a student with a level five disability shall be the previous fiscal year's allocation
24 for such child increased by the lesser of the index factor or three percent;

1 (12A) "Allocation for a student with a level six disability ," for the school fiscal year
2 beginning July 2004, is \$8,122.23. For each school year thereafter, the allocation for
3 a student with a level six disability shall be the previous fiscal year's allocation for
4 such child increased by the lesser of the index factor or three percent;

5 (13) "Child count," is the number of students in need of special education or special
6 education and related services according to criteria set forth in rules promulgated
7 pursuant to §§ 13-37-1.1 and 13-37-46 submitted to the Department of Education in
8 accordance with rules promulgated pursuant to § 13-37-1.1;

9 (14) "Average daily membership," the average number of kindergarten through twelfth
10 grade pupils enrolled in all schools operated by the school district during the previous
11 regular school year plus the average number of pupils for whom the district pays
12 tuition;

13 (15) "Nonpublic school," a sectarian organization or entity which is accredited by the
14 secretary of education for the purpose of instructing children of compulsory school
15 age. This definition excludes any school that receives a majority of its revenues from
16 public funds;

17 (16) "Nonpublic average daily membership," the average number of children under age
18 sixteen who are approved for alternative instruction pursuant to § 13-27-2 during the
19 previous school year plus:

20 (a) For nonpublic schools located within the boundaries of a public school district
21 with an average daily membership of six hundred or more during the previous
22 school year, the average number of kindergarten through twelfth grade pupils
23 enrolled during the previous regular school year in all nonpublic schools
24 located within the boundaries of the public school district;

1 (b) For nonpublic schools located within the boundaries of a public school district
2 with an average daily membership of less than six hundred during the previous
3 school year, the average number of resident kindergarten through twelfth grade
4 pupils enrolled during the previous school year in all nonpublic schools
5 located within the State of South Dakota;

6 (17) "Special education average daily membership," average daily membership plus
7 nonpublic average daily membership;

8 (18) "Local need," an amount to be determined as follows:

9 (a) Multiply the special education average daily membership by 0.1013 and
10 multiply the result by the allocation for a student with a level one disability;

11 (b) Multiply the number of students having a level two disability as reported on
12 the child count for the previous school fiscal year by the allocation for a
13 student with a level two disability;

14 (c) Multiply the number of students having a level three disability as reported on
15 the child count for the previous school fiscal year by the allocation for a
16 student with a level three disability;

17 (d) Multiply the number of students having a level four disability as reported on
18 the child count for the previous school fiscal year by the allocation for a
19 student with a level four disability;

20 (e) Multiply the number of students having a level five disability as reported on
21 the child count for the previous school fiscal year by the allocation for a
22 student with a level five disability;

23 (f) Multiply the number of students having a level six disability as reported on the
24 child count for the previous school fiscal year by the allocation for a student

1 with a level six disability;

2 (g) Sum the results of (a) through (f);

3 (19) "~~Effort factor," the school district's special education tax levy in dollars per thousand~~
4 ~~divided by \$1.20. The maximum effort factor is for taxes payable 2009, 2010, 2011,~~
5 2012, and 2013 shall be 1.0.

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

400N0236

HOUSE HEALTH AND HUMAN SERVICES COMMITTEE ENGROSSED NO. **SB 15** - 02/02/2007

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 require certain immunizations for students attending
2 postsecondary educational institutions.

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

4 Section 1. Terms in this Act mean:

5 (1) "Public or private postsecondary educational institution" or "institution," any entity
6 permitted to offer postsecondary education credits or degrees in South Dakota under
7 § 13-49-27.1;

8 (2) "Student," any person born after 1956 who is registering for more than one class
9 during an academic term, such as a quarter or a semester. The term includes any
10 person who meets face-to-face at least once per week to receive instruction. The term
11 does not include any person who receives non-credit-bearing or on-the-job training
12 services.

13 Section 2. Any student entering a public or private postsecondary education institution in
14 this state for the first time after July 1, 2008, shall, within forty-five days after the start of
15 classes, present to the appropriate institution certification from a licensed physician that the



1 student has received or is in the process of receiving the required two doses of immunization
2 against measles, rubella, and mumps. As an alternative to the requirement for a physicians's
3 certification, the student may present:

4 (1) Certification from a licensed physician stating the physical condition of the student
5 would be such that immunization would endanger the student's life or health;

6 (2) Certification from a licensed physician stating the student has experienced the natural
7 disease against which the immunization protects;

8 (3) Confirmation from a laboratory of the presence of adequate immunity; or

9 (4) A written statement signed by the student that the student is an adherent to a religious
10 doctrine whose teachings are opposed to such immunizations. If the student is under
11 the age of eighteen, the written statement shall be signed by one parent or guardian.

12 Section 3. The institution shall require that the documentation from the student, provided
13 for by section 2 of this Act, be submitted within forty-five days after the start of classes.

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

400N0295

SENATE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **SB 25** - 02/02/2007

Introduced by: The Committee on State Affairs at the request of the Public Utilities
Commission

1 FOR AN ACT ENTITLED, An Act to revise certain requirements regarding the ability of the
2 Public Utilities Commission to regulate the sale or other disposition of the property, plant,
3 business, or stock of electric or gas public utilities.

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

5 Section 1. That § 49-34A-35 be amended to read as follows:

6 49-34A-35. ~~No public utility shall sell, lease or otherwise dispose of its property or business~~
7 ~~constituting an operating unit or system in this state to another public utility or purchase the~~
8 ~~property or business constituting an operating unit or system in this state to another public utility~~
9 ~~or merge or consolidate with another public utility operating in this state, without first being~~
10 ~~authorized to do so by the Public Utilities Commission; provided, that in the event such sale,~~
11 ~~lease or other disposition of the property or business of one public utility to another public~~
12 ~~utility does not involve a sale, lease or disposition wherein the actual consideration exceeds two~~
13 ~~hundred thousand dollars, such sale, lease or disposition shall not be subject to the provisions~~
14 ~~of this section~~ No public utility, without first being authorized to do so by the commission, may:

15 (1) Sell, lease, or otherwise dispose of its property or business constituting an operating



1 unit or system in this state to another person;

2 (2) Sell, lease, or otherwise dispose of its operating property or plant used to provide gas
3 or electric service to its customers in this state to another person;

4 (3) Purchase the property or business constituting an operating unit or system in this state
5 of another public utility; or

6 (4) Merge or consolidate with another public utility operating in this state.

7 However, if the sale, lease, merger, consolidation, or other disposition of the property or
8 business of one public utility to another person, as provided in subdivisions (1) to (4), inclusive,
9 does not involve a sale, lease, merger, consolidation, or disposition wherein the fair market
10 value exceeds ten million dollars, the sale, lease, merger, consolidation, or disposition is not
11 subject to the restrictions of this section.

12 No person may acquire or gain control either directly or indirectly of any public utility doing
13 business in this state that has a fair market value exceeding ten million dollars without the
14 commission's prior authorization. As used in this section, the term, control, means the right to
15 direct or cause the direction of the management and policies of the public utility, whether
16 through the ownership of voting securities, by contract, or otherwise.

17 Section 2. That § 49-34A-36 be amended to read as follows:

18 49-34A-36. Upon the filing of an application for the approval ~~and consent~~ of the ~~Public~~
19 ~~Utilities Commission~~ commission to an action described in § 49-34A-35, the commission shall
20 investigate the ~~same~~ application, with or without public hearing, and in case of a public hearing,
21 upon such notice as the commission may require, ~~and if it shall find that the proposed action is~~
22 ~~consistent with the public interests it shall give its consent and approval in writing. In reaching~~
23 ~~its determination, the commission shall take into consideration the reasonable value of the~~
24 ~~property, plant, equipment or securities to be acquired or disposed of or merged and~~

1 ~~consolidated. The commission shall act on the application within one hundred eighty days and~~
2 ~~shall approve the proposed action unless the commission finds that there is a likelihood of~~
3 ~~significant adverse impacts to customers in this state.~~

4 Section 3. That § 49-34A-37 be amended to read as follows:

5 49-34A-37. No public utility subject to the jurisdiction of the ~~Public Utilities Commission~~
6 ~~commission~~ may purchase voting stock in another public utility doing business in South Dakota
7 without first having made application to and received the ~~consent~~ approval of the commission
8 ~~in writing or by order within the time and in the manner provide in section 2 of this Act.~~ An
9 intentional violation of this section is a petty offense. After the first judgment, each day's
10 violation is a separate offense.

11 Section 4. That § 49-34A-38 be repealed.

12 ~~— 49-34A-38. The provisions of §§ 49-34A-35 to 49-34A-37, inclusive, shall not apply to any~~
13 ~~transaction which is subject to the jurisdiction of a federal agency or authority.~~

14 Section 5. That § 49-34A-38.1 be repealed.

15 ~~— 49-34A-38.1. Notwithstanding the provisions of §§ 49-34A-35 to 49-34A-38, inclusive, no~~
16 ~~person may acquire or control either directly or indirectly more than ten percent of the total~~
17 ~~capital stock of any public utility organized and doing business in this state or of any public~~
18 ~~utility organized under the laws of any other state receiving more than twenty-five percent of~~
19 ~~its gross revenue in this state without first securing authorization to do so from the Public~~
20 ~~Utilities Commission. Any such acquisition or control without the commission's prior~~
21 ~~authorization is void.~~

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

400N0306

HOUSE COMMERCE COMMITTEE ENGROSSED NO.

SB 39 - 01/29/2007

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

1 FOR AN ACT ENTITLED, An Act to provide claims information to commercial property
2 casualty insureds.

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

4 Section 1. That chapter 58-12 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Any carrier who is or has provided commercial property casualty coverage in this state shall
7 provide, at the written request of the insured, annual reports of the claims experience of that
8 insured for the immediate past policy period and for any time frames which are not in excess
9 of three years prior to the policy period for which the request was made. A carrier is not required
10 to provide any claim information that pertains to a prior carrier's experience with that insured.
11 The claims report shall be in sufficient detail so as to provide the insured with data sufficient
12 to assess the insured's future commercial property casualty insurance needs. The director may
13 promulgate rules pursuant to chapter 1-26 regarding the content and time frames for the annual
14 reports.



State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

562N0414

HOUSE COMMERCE COMMITTEE ENGROSSED NO.

SB 70 - 02/14/2007

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

Introduced by: Senators Gant, Garnos, and Napoli and Representatives Weems, Peters, and Wick

1 FOR AN ACT ENTITLED, An Act to revise certain fees, continuing education requirements,
2 and examination requirements for massage therapists.

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

4 Section 1. That § 36-35-12 be amended to read as follows:

5 36-35-12. The board may issue a license to engage in the practice of massage to any person
6 who submits an application form and the nonrefundable application fee as approved in § 36-35-
7 17 and who demonstrates the following qualifications:

- 8 (1) Eighteen years of age or older;
- 9 (2) Good moral character;
- 10 (3) High school diploma or equivalent;
- 11 (4) Completion of no less than five hundred hours of training or study in the practice of
12 massage with a facility or instructor recognized by the board;
- 13 (5) Absence of unprofessional conduct;
- 14 (6) ~~Malpractice~~ Professional liability insurance coverage with limits at or above an



1 amount set by the board; and

2 (7) Passing score on an examination administered by a national certification board
3 ~~accredited by the National Commission of Certifying Agencies and in good standing~~
4 ~~with the National Organization of Competency Assurance~~ approved by the board in
5 rules promulgated pursuant to chapter 1-26.

6 A license issued under this chapter is valid for a period of ~~two years~~ one year from the date
7 it was issued and automatically expires unless it is renewed. The board may refuse to grant a
8 license to any person based on failure to demonstrate the requirements of this section. An
9 applicant may appeal the denial of a license in compliance with chapter 1-26.

10 Section 2. That § 36-35-14 be amended to read as follows:

11 36-35-14. ~~For two years following July 1, 2005~~ Until July 1, 2008, the board may issue a
12 license to a person who demonstrates completion of a minimum of one hundred hours of
13 training or study in the practice of massage with a facility or instructor recognized by the board
14 or adequate experience derived from the active practice of massage for at least the three years
15 immediately preceding the date of the application. Any person applying for a license under this
16 section is not required to comply with the examination and training or study requirements of
17 § 36-35-12 but shall meet the other criteria set forth in § 36-35-12. Any person applying for a
18 license under this section shall submit an application as required by § 36-35-12 along with proof
19 of active practice for at least three years prior to the date of application.

20 Section 3. That § 36-35-17 be amended to read as follows:

21 36-35-17. Any applicant for a license under this chapter shall submit a nonrefundable
22 application fee of one hundred dollars. Any person who has a license issued or renewed by the
23 board shall submit a license fee in an amount set by the board, but not to exceed ~~three hundred~~
24 sixty-five dollars.

1 Section 4. That § 36-35-19 be amended to read as follows:

2 36-35-19. Any person licensed under this chapter shall complete eight hours of continuing
3 education relating to competence in the practice of massage on ~~an annual~~ a biennial basis ~~in an~~
4 ~~amount, of a type;~~ and from a facility or instructor approved by the board. No more than four
5 of the required continuing education hours may be obtained by electronic means. The board may
6 waive the continuing education requirement upon proof of illness or hardship.

7 Section 5. That chapter 36-35 be amended by adding thereto a NEW SECTION to read as
8 follows:

9 The board may issue an inactive massage therapist license upon payment of the application
10 fee.

11 Section 6. That § 36-35-24 be amended to read as follows:

12 36-35-24. The board may promulgate rules pursuant to chapter 1-26 in the following areas:

- 13 (1) The form and information required for any license application;
- 14 (2) A list of recognized facilities or instructors who may provide training or instruction
15 required for licensure or continuing education requirements;
- 16 (3) The amount of license fees;
- 17 (4) The procedures for conducting disciplinary proceedings; ~~and~~
- 18 (5) The minimum limits of malpractice insurance to be carried by any person licensed
19 under this chapter; and
- 20 (6) The procedures for applying for an inactive license and the procedures to regain
21 active licensure.

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

445N0172 **SENATE JUDICIARY COMMITTEE ENGROSSED NO.**
SB 89 - 01/24/2007

Introduced by: Senators Knudson and Heidepriem and Representatives Lust, Cutler, and Engels

1 FOR AN ACT ENTITLED, An Act to adopt the Uniform Prudent Management of Institutional
2 Funds Act.

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

4 Section 1. This Act may be cited as the Uniform Prudent Management of Institutional Funds
5 Act.

6 Section 2. In this Act:

7 (1) "Charitable purpose" means the relief of poverty, the advancement of education or
8 religion, the promotion of health, the promotion of a governmental purpose, or any
9 other purpose the achievement of which is beneficial to the community.

10 (2) "Endowment fund" means an institutional fund or part thereof that, under the terms
11 of a gift instrument, is not wholly expendable by the institution on a current basis.
12 The term does not include assets that an institution designates as an endowment fund
13 for its own use.

14 (3) "Gift instrument" means a record or records, including an institutional solicitation,
15 under which property is granted to, transferred to, or held by an institution as an



1 institutional fund.

2 (4) "Institution" means:

3 (A) A person, other than an individual, organized and operated exclusively for
4 charitable purposes;

5 (B) A government or governmental subdivision, agency, or instrumentality, to the
6 extent that it holds funds exclusively for a charitable purpose; and

7 (C) A trust that had both charitable and noncharitable interests, after all
8 noncharitable interests have terminated.

9 (5) "Institutional fund" means a fund held by an institution exclusively for charitable
10 purposes. The term does not include:

11 (A) Program-related assets;

12 (B) A fund held for an institution by a trustee that is not an institution; or

13 (C) A fund in which a beneficiary that is not an institution has an interest, other
14 than an interest that could arise upon violation or failure of the purposes of the
15 fund.

16 (6) "Person" means an individual, corporation, business trust, estate, trust, partnership,
17 limited liability company, association, joint venture, public corporation, government
18 or governmental subdivision, agency, or instrumentality, or any other legal or
19 commercial entity.

20 (7) "Program-related asset" means an asset held by an institution primarily to accomplish
21 a charitable purpose of the institution and not primarily for investment.

22 (8) "Record" means information that is inscribed on a tangible medium or that is stored
23 in an electronic or other medium and is retrievable in perceivable form.

24 Section 3. (a) Subject to the intent of a donor expressed in a gift instrument, an institution,

1 in managing and investing an institutional fund, shall consider the charitable purposes of the
2 institution and the purposes of the institutional fund.

3 (b) In addition to complying with the duty of loyalty imposed by law other than this Act,
4 each person responsible for managing and investing an institutional fund shall manage and
5 invest the fund in good faith and with the care an ordinarily prudent person in a like position
6 would exercise under similar circumstances.

7 (c) In managing and investing an institutional fund, an institution:

8 (1) May incur only costs that are appropriate and reasonable in relation to the assets, the
9 purposes of the institution, and the skills available to the institution; and

10 (2) Shall make a reasonable effort to verify facts relevant to the management and
11 investment of the fund.

12 (d) An institution may pool two or more institutional funds for purposes of management and
13 investment.

14 (e) Except as otherwise provided by a gift instrument, the following rules apply:

15 (1) In managing and investing an institutional fund, the following factors, if relevant,
16 must be considered:

17 (A) General economic conditions;

18 (B) The possible effect of inflation or deflation;

19 (C) The expected tax consequences, if any, of investment decisions or strategies;

20 (D) The role that each investment or course of action plays within the overall
21 investment portfolio of the fund;

22 (E) The expected total return from income and the appreciation of investments;

23 (F) Other resources of the institution;

24 (G) The needs of the institution and the fund to make distributions and to preserve

1 capital; and

2 (H) An asset's special relationship or special value, if any, to the charitable
3 purposes of the institution.

4 (2) Management and investment decisions about an individual asset must be made not
5 in isolation but rather in the context of the institutional fund's portfolio of
6 investments as a whole and as a part of an overall investment strategy having risk and
7 return objectives reasonably suited to the fund and to the institution.

8 (3) Except as otherwise provided by law other than this Act, an institution may invest in
9 any kind of property or type of investment consistent with this section.

10 (4) An institution shall diversify the investments of an institutional fund unless the
11 institution reasonably determines that, because of special circumstances, the purposes
12 of the fund are better served without diversification.

13 (5) Within a reasonable time after receiving property, an institution shall make and carry
14 out decisions concerning the retention or disposition of the property or to rebalance
15 a portfolio, in order to bring the institutional fund into compliance with the purposes,
16 terms, and distribution requirements of the institution as necessary to meet other
17 circumstances of the institution and the requirements of this Act.

18 (6) A person that has special skills or expertise, or is selected in reliance upon the
19 person's representation that the person has special skills or expertise, has a duty to
20 use those skills or that expertise in managing and investing institutional funds.

21 Section 4. (a) Subject to the intent of a donor expressed in the gift instrument, an institution
22 may appropriate for expenditure or accumulate so much of an endowment fund as the institution
23 determines is prudent for the uses, benefits, purposes, and duration for which the endowment
24 fund is established. Unless stated otherwise in the gift instrument, the assets in an endowment

1 fund are donor-restricted assets until appropriated for expenditure by the institution. In making
2 a determination to appropriate or accumulate, the institution shall act in good faith, with the care
3 that an ordinarily prudent person in a like position would exercise under similar circumstances,
4 and shall consider, if relevant, the following factors:

- 5 (1) The duration and preservation of the endowment fund;
- 6 (2) The purposes of the institution and the endowment fund;
- 7 (3) General economic conditions;
- 8 (4) The possible effect of inflation or deflation;
- 9 (5) The expected total return from income and the appreciation of investments;
- 10 (6) Other resources of the institution; and
- 11 (7) The investment policy of the institution.

12 (b) To limit the authority to appropriate for expenditure or accumulate under subsection (a),
13 a gift instrument must specifically state the limitation.

14 (c) Terms in a gift instrument designating a gift as an endowment, or a direction or
15 authorization in the gift instrument to use only "income", "interest", "dividends", or "rents,
16 issues, or profits", or "to preserve the principal intact", or words of similar import:

- 17 (1) Create an endowment fund of permanent duration unless other language in the gift
18 instrument limits the duration or purpose of the fund; and
- 19 (2) Do not otherwise limit the authority to appropriate for expenditure or accumulate
20 under subsection (a).

21 Section 5. (a) Subject to any specific limitation set forth in a gift instrument or in law other
22 than this Act, an institution may delegate to an external agent the management and investment
23 of an institutional fund to the extent that an institution could prudently delegate under the
24 circumstances. An institution shall act in good faith, with the care that an ordinarily prudent

1 person in a like position would exercise under similar circumstances, in:

2 (1) Selecting an agent;

3 (2) Establishing the scope and terms of the delegation, consistent with the purposes of
4 the institution and the institutional fund; and

5 (3) Periodically reviewing the agent's actions in order to monitor the agent's performance
6 and compliance with the scope and terms of the delegation.

7 (b) In performing a delegated function, an agent owes a duty to the institution to exercise
8 reasonable care to comply with the scope and terms of the delegation.

9 (c) An institution that complies with subsection (a) is not liable for the decisions or actions
10 of an agent to which the function was delegated.

11 (d) By accepting delegation of a management or investment function from an institution that
12 is subject to the laws of this state, an agent submits to the jurisdiction of the courts of this state
13 in all proceedings arising from or related to the delegation or the performance of the delegated
14 function.

15 (e) An institution may delegate management and investment functions to its committees,
16 officers, or employees as authorized by law of this state other than this Act.

17 Section 6. (a) If the donor consents in a record, an institution may release or modify, in
18 whole or in part, a restriction contained in a gift instrument on the management, investment, or
19 purpose of an institutional fund. A release or modification may not allow a fund to be used for
20 a purpose other than a charitable purpose of the institution.

21 (b) The court, upon application of an institution, may modify a restriction contained in a gift
22 instrument regarding the management or investment of an institutional fund if the restriction has
23 become impracticable or wasteful, if it impairs the management or investment of the fund, or
24 if, because of circumstances not anticipated by the donor, a modification of a restriction will

1 further the purposes of the fund. To the extent practicable, any modification must be made in
2 accordance with the donor's probable intention.

3 (c) If a particular charitable purpose or a restriction contained in a gift instrument on the use
4 of an institutional fund becomes unlawful, impracticable, impossible to achieve, or wasteful,
5 the court, upon application of an institution, may modify the purpose of the fund or the
6 restriction on the use of the fund in a manner consistent with the charitable purposes expressed
7 in the gift instrument.

8 (d) If an institution determines that a restriction contained in a gift instrument on the
9 management, investment, or purpose of an institutional fund is unlawful, impracticable,
10 impossible to achieve, or wasteful, the institution may release or modify the restriction, in whole
11 or part, if:

- 12 (1) The institutional fund subject to the restriction has a total value of less than twenty-
13 five thousand dollars;
- 14 (2) More than twenty years have elapsed since the fund was established; and
- 15 (3) The institution uses the property in a manner consistent with the charitable purposes
16 expressed in the gift instrument.

17 Section 7. Compliance with this Act is determined in light of the facts and circumstances
18 existing at the time a decision is made or action is taken, and not by hindsight.

19 Section 8. This Act applies to institutional funds existing on or established after July 1,
20 2007. As applied to institutional funds existing on July 1, 2007, this Act governs only decisions
21 made or actions taken on or after that date. This Act does not apply to any funds directly held
22 or managed by a governmental agency.

23 Section 9. This Act modifies, limits, and supersedes the Electronic Signatures in Global and
24 National Commerce Act, 15 U.S.C. Section 7001 et seq., but does not modify, limit, or

1 supersede Section 101 of that act, 15 U.S.C. Section 7001(a), or authorize electronic delivery
2 of any of the notices described in Section 103 of that act, 15 U.S.C. Section 7003(b).

3 Section 10. In applying and construing this uniform act, consideration shall be given to the
4 need to promote uniformity of the law with respect to its subject matter among states that enact
5 it.

6 Section 11. That §§ 55-14-1 to 55-14-7, inclusive, be repealed.

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

824N0518

HOUSE TRANSPORTATION COMMITTEE

ENGROSSED NO. **SB 125** - 02/13/2007

Introduced by: Senators Napoli, Gray, Greenfield, Hundstad, Koetzle, Maher, McCracken, McNenny, Olson (Ed), Peterson (Jim), and Schmidt (Dennis) and Representatives Hunt, Brunner, Dennert, Dykstra, Gillespie, Koistinen, Moore, Novstrup (Al), Rave, Weems, and Wick

1 FOR AN ACT ENTITLED, An Act to allow an abandoned mobile home or manufactured home
2 to be moved under certain conditions and to require property taxes to be abated on certain
3 abandoned mobile homes and manufactured homes.

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

5 Section 1. If a mobile home or manufactured home as defined in chapter 32-7A has been
6 abandoned and left on leased real property, the owner of real property may sell the mobile home
7 or manufactured home under the provisions of chapter 21-54. A mobile home or manufactured
8 home is considered abandoned if the owner of the mobile home or manufactured home has not
9 removed the home from the real property owner's land within thirty days of the court issuing a
10 writ of possession as provided in chapter 21-16. Upon issuance of the writ of possession by the
11 court, the owner of real property shall give the owner of the mobile home or manufactured home
12 and any lienholder with a lien properly noted pursuant to chapter 32-3, written notice of intent
13 to sell the home pursuant to chapter 21-54 if the home is not removed from the real property
14 owner's property within thirty days. The notice shall be sent to the owner of the mobile home



1 or manufactured home at the owner's last known address. The Department of Revenue and
2 Regulation shall promulgate rules pursuant to chapter 1-26 to prescribe a form for the written
3 notice. Any written notice shall be sent by certified mail. The sale is subject to any taxes owed
4 on the home and unpaid lot rent but such unpaid lot rent lien may not exceed two month's lot
5 rent at the price previously agreed to by the owner of real property and owner of the mobile
6 home or manufactured home.

7 Section 2. After the owner of the abandoned mobile home or manufactured home has been
8 provided thirty days written notice, and before the owner of real property proceeds with the sale
9 of the abandoned mobile home or manufactured home, the owner of the real property shall
10 provide written notice of intent to sell the abandoned property to the county treasurer where the
11 home is located. The Department of Revenue and Regulation shall promulgate rules pursuant
12 to chapter 1-26 to prescribe a form for the written notice. If the treasurer has not issued a distress
13 warrant and informed the owner of real property of such issuance within thirty days of the notice
14 required by this section or the mobile home or manufactured home has not been removed by its
15 owner or any lien holder within thirty days of the notice provided by section 1 of this Act, the
16 owner of real property may proceed with the sale pursuant to chapter 21-54.

17 Section 3. If an abandoned mobile home or manufactured home fails to sell at a sale held
18 pursuant to chapter 21-54, title to the mobile home or manufactured home is irrevocably vested
19 with the owner of the real property. The owner of the real property on which the mobile home
20 or manufactured home resides, may obtain an abandoned title without payment or obligation to
21 pay any taxes owed on the home or any lien on the home at the time of acquisition. However,
22 if the owner of the real property intends any use of the abandoned mobile home or manufactured
23 home other than disposal, the owner of the real property may obtain an abandoned title after
24 paying any taxes owed on the home. The department shall promulgate rules pursuant to chapter

1 1-26 to prescribe a form that shall be used to apply for the abandoned title.

2 Section 4. If an owner of the real property obtains a title to a mobile home or manufactured
3 home pursuant to section 3 of this Act, the owner of the real property shall obtain a permit
4 pursuant to § 32-5-16.3 to move the abandoned mobile home or manufactured home. If the
5 owner of the real property files an affidavit with the county treasurer stating that the owner is
6 going to move the abandoned mobile home or manufactured home for the sole purpose of
7 disposal, the county treasurer shall issue the permit provided by § 32-5-16.3 without receiving
8 payment of the current year's taxes. The Department of Revenue and Regulation shall
9 promulgate rules pursuant to chapter 1-26 to prescribe a form for the affidavit.

10 Section 5. The county treasurer shall deliver the affidavit filed pursuant to section 4 of this
11 Act to the board of county commissioners after issuance of the permit. Upon receipt of the
12 affidavit, the board of county commissioners shall abate any taxes owed on the mobile home
13 or manufactured home.