

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

768N0548

SENATE APPROPRIATIONS COMMITTEE

ENGROSSED NO. **HB 1138** - 02/22/2007

Introduced by: Representatives Haverly, Buckingham, Kirkeby, and Peters and Senators Greenfield, Gant, Katus, Napoli, and Olson (Ed)

1 FOR AN ACT ENTITLED, An Act to appropriate money to postsecondary technical institutes
2 for the maintenance and repair of buildings.

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 three hundred sixty
5 thousand dollars (\$360,000), or so much thereof as may be necessary, to the Department of
6 Education for the maintenance and repair of buildings of postsecondary technical institutes.

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

9 Section 3. 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

277N0578

SENATE ENGROSSED NO. **HB 1139** - 02/26/2007

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

Introduced by: Representatives Rhoden, Boomgarden, Brunner, Buckingham, Carson, Cutler, Davis, Deadrick, DeVries, Dreyer, Dykstra, Faehn, Gilson, Hackl, Hanks, Haverly, Heineman, Hills, Howie, Hunt, Jerke, Juhnke, Kirkeby, Koistinen, Krebs, Lust, McLaughlin, Nelson, Noem, Novstrup (Al), Novstrup (David), Olson (Betty), Olson (Russell), Olson (Ryan), Pederson (Gordon), Peters, Pitts, Putnam, Rausch, Rave, Rounds, Steele, Tidemann, Turbiville, Van Etten, Vanneman, Vehle, Weems, Wick, and Willadsen and Senators Knudson, Abdallah, Albers, Dempster, Duenwald, Gant, Garnos, Gray, Hansen (Tom), Hauge, Hunhoff, Lintz, McCracken, McNenny, Olson (Ed), and Smidt (Orville)

1 FOR AN ACT ENTITLED, An Act to create and provide for the education enhancement
2 tobacco tax fund and the health care tobacco tax fund.

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

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

6 There is hereby created in the state treasury the education enhancement tobacco tax fund.

7 All moneys in the education enhancement tobacco tax fund are subject to appropriation by the
8 Legislature through the General Appropriations Act or special appropriations acts for education
9 enhancement programs. Any interest earned shall be credited to the fund.

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



1 There is hereby created in the state treasury the health care tobacco tax fund. All moneys in
2 the health care tobacco tax fund are subject to appropriation by the Legislature through the
3 General Appropriations Act or special appropriations acts for health care related programs. Any
4 interest earned shall be credited to the fund.

5 Section 3. That § 10-50-52 be amended to read as follows:

6 10-50-52. The first thirty million dollars in revenue collected annually pursuant to this
7 chapter shall be deposited in the general fund. All revenue in excess of thirty million dollars
8 collected annually shall be deposited in the tobacco prevention and reduction trust fund. Five
9 million dollars of the revenue deposited annually in the tobacco prevention and reduction trust
10 fund pursuant to this section shall be used to implement the tobacco prevention and reduction
11 program. Thirty-three percent of any revenue deposited in the tobacco prevention and reduction
12 trust fund in excess of five million dollars shall be transferred to the property tax reduction fund.
13 Thirty-three percent of any revenue deposited in the tobacco prevention and reduction trust fund
14 in excess of five million dollars shall be transferred to the education enhancement ~~trust~~ tobacco
15 tax fund. Thirty-four percent of any revenue deposited in the tobacco prevention and reduction
16 trust fund in excess of five million dollars shall be transferred to the health care ~~trust~~ tobacco
17 tax fund.

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

339N0533

SENATE ENGROSSED NO. **HB 1196** - 02/26/2007

Introduced by: Representatives Rounds, Boomgarden, Buckingham, Cutler, Engels, Feinstein, Gilson, Lust, Moore, Noem, Novstrup (Al), Olson (Ryan), Peters, Weems, Wick, and Willadsen and Senators McCracken, Abdallah, Albers, Gray, Hoerth, Jerstad, Koetzle, and Schmidt (Dennis)

1 FOR AN ACT ENTITLED, An Act to provide for notice and opportunity to remedy residential
2 construction defects.

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

4 Section 1. Terms used in this Act mean:

- 5 (1) "Action," any civil lawsuit or action in contract or tort for damage or indemnity
6 brought against a construction professional to assert a claim for damage or the loss
7 of use of real or personal property caused by a construction defect. The term does not
8 include a counterclaim, cross-claim, or civil action in tort alleging personal injury or
9 wrongful death resulting from a construction defect;
- 10 (2) "Construction defect," a deficiency in or arising out of the supervision, construction,
11 or remodeling of a residence that results from any of the following:
- 12 (a) Defective materials, products, or components used in the construction or
13 remodeling of a residence;
- 14 (b) Violation of the applicable building, plumbing, or electrical codes in effect at



1 the time of the construction or remodeling of a residence; or

2 (c) Failure to construct or remodel a residence in accordance with contract
3 specifications or accepted trade standards;

4 (3) "Construction professional," a builder, contractor, or subcontractor performing or
5 furnishing the supervision of the construction or remodeling of any residence,
6 whether operating as a sole proprietor, partnership, corporation, or other business
7 entity;

8 (4) "Home owner," any person, company, firm, partnership, corporation, or association
9 who contracts with a construction professional for the remodeling, construction, or
10 construction and sale of a residence. The term includes a subsequent purchaser of a
11 residence from any home owner;

12 (5) "Residence," a single-family house or a unit in a multi-unit residential structure in
13 which title to each individual unit is transferred to the owner under a condominium
14 or cooperative system;

15 (6) "Serve" or "service," personal delivery or delivery by certified mail to the last known
16 address of the addressee.

17 Section 2. Prior to commencing an action against the construction professional for a
18 construction defect, a home owner shall:

19 (1) Serve on the construction professional a written notice describing the alleged
20 construction defect; and

21 (2) Allow the construction professional, within thirty days after service of the notice, to
22 inspect the alleged construction defect and serve on the home owner a written offer
23 to repair the construction defect or compensate the owner by monetary payment.

24 The home owner may not commence an action against the construction professional for a

1 construction defect until thirty days after the notice is served on the construction professional
2 or until the construction professional refuses to remedy the alleged construction defect,
3 whichever occurs first. Upon service of the notice, the statute of limitations set forth in chapter
4 15-2A is suspended for the thirty-day period or until the refusal, whichever occurs first. If the
5 home owner commences an action against the construction professional without complying with
6 the requirements of this section, the action shall be stayed until the home owner has complied
7 with such requirements. No home owner is required to serve another written notice for any
8 additional defects discovered after the home owner has served an initial written notice of a
9 construction defect pursuant to this section. The provisions of this Act do not apply to the
10 initiation of a counterclaim or cross-claim in any action that is already properly commenced.

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

669N0700

SENATE ENGROSSED NO. **HB 1205** - 02/26/2007

Introduced by: Representatives Peters, Dennert, Halverson, Haverly, Kirkeby, Rausch, Street, and Tidemann and Senators Gant, Napoli, and Smidt (Orville)

1 FOR AN ACT ENTITLED, An Act to provide funds to the state technical institutes.

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 eight hundred
4 thousand dollars (\$800,000), or so much thereof as may be necessary, to the Department of
5 Education for the purposes of fulfilling the mission of South Dakota technical institutes.

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, 2009, shall revert in accordance with § 4-8-21.



State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

399N0764

SENATE ENGROSSED NO. **HB 1279** - 02/26/2007

Introduced by: Representatives Haverly, Burg, Rausch, and Tidemann and Senators Smidt (Orville), Apa, Greenfield, and Koetzle

1 FOR AN ACT ENTITLED, An Act to create a task force to study permanent funding options
2 for the state technical institutes, to provide for its composition, and to declare an emergency.

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

4 Section 1. There is hereby established the Technical Institute Funding Task Force. The task
5 force shall consist of the following nineteen members:

6 (1) The speaker of the House of Representatives shall appoint four members of the
7 House of Representatives, no more than three of whom may be from one political
8 party;

9 (2) The president pro tempore of the Senate shall appoint four members of the Senate,
10 no more than three of whom may be from one political party;

11 (3) The Executive Board of the Legislative Research Council shall appoint five private
12 employers or members of the general public representing business and industry from
13 the four technical institute regions, no more than three of whom may be from one
14 political party;

15 (4) The Governor shall appoint two members of the general public, no more than one of



1 whom may be from one political party; and

2 (5) Each president of the four state technical institutes shall serve ex officio.

3 The initial appointments shall be made no later than May 10, 2007. If there is a vacancy on the
4 task force, the vacancy shall be filled in the same manner as the original appointment.

5 Section 2. The task force shall be under the supervision of the Executive Board of the
6 Legislative Research Council and staffed and funded as an interim legislative committee. The
7 Executive Board shall appoint the chair and the vice chair from among the legislators appointed
8 to the commission.

9 Section 3. The task force shall evaluate the current system of technical institute funding and
10 recommend alternative financing and allocation options. Based on these recommendations, the
11 task force shall submit a report and draft legislation to the Executive Board of the Legislative
12 Research Council no later than November 1, 2007.

13 Section 4. 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

347N0186

HOUSE COMMERCE COMMITTEE ENGROSSED NO.

SB 10 - 02/26/2007

Introduced by: The Committee on Commerce at the request of the Statewide One-Call
Notification Board

1 FOR AN ACT ENTITLED, An Act to revise certain requirements and procedures regarding the
2 one-call notification system for excavation activities.

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

4 Section 1. That subdivision (3) of § 49-7A-1 be amended to read as follows:

5 (3) "Excavation," any operation in which earth, rock, or other material in or ~~on~~ below the
6 ground is moved or otherwise displaced by means of tools, equipment, or explosives,
7 and includes grading, trenching, digging, ditching, drilling, augering, tunneling,
8 scraping, and cable or pipe plowing or driving, except ~~tilling~~;

9 (a) Tilling of soil and gardening to a depth of twelve inches and the tilling of soil
10 for agricultural purposes to a depth of eighteen inches, ~~road and ditch~~
11 ~~maintenance that does not extend below eighteen inches of original roadgrade~~
12 ~~or ditch flowline within the road right-of-way, digging~~;

13 (b) Pot hole repair and grading of an existing public road if the pot hole repair and
14 grading does not extend more than eighteen inches below the finished
15 roadway;



1 (c) Any vehicle operation or operation involving the use of any hand tool, other
 2 than a power tool, so long as such operation does not extend more than
 3 eighteen inches below the surface of the groundline within the right-of-way;

4 (d) Any road and ditch repair or road and ditch activity that does not extend more
 5 than eighteen inches below the surface of the original groundline within the
 6 right-of-way;

7 (e) Digging in a cemetery, or digging; and

8 (f) Digging in a planned sanitary landfill;

9 Section 2. That § 49-7A-5 be amended to read as follows:

10 49-7A-5. No excavator may begin any excavation without first notifying the one-call
 11 notification center of the proposed excavation. The excavator shall give notice by telephone;
 12 ~~facsimile, in person,~~ or by other methods approved by the board pursuant to rules promulgated
 13 pursuant to chapter 1-26 to the one-call notification center at least forty-eight hours prior to the
 14 commencement of the excavation, excluding Saturdays, Sundays, and legal holidays of the state;
 15 ~~but not more than ten business days prior to any excavation.~~ The board may promulgate rules
 16 to reduce the forty-eight-hour interval for emergency or subsequent inquiries to the original
 17 locate request and may lengthen the forty-eight-hour interval for nonexcavation requests.

18 Section 3. That § 49-7A-27 be amended to read as follows:

19 49-7A-27. The board shall accept the recommendations of the panel unless either party
 20 requests a hearing. The A party requests a hearing by rejecting the panel's recommendation
 21 within twenty days from the date of service of the notice. However, the board may extend the
 22 time period for requesting a hearing. Failure to request a hearing is considered acceptance of the
 23 panel's recommendation. If a hearing is held, the hearing shall be conducted before the board
 24 as a contested case under chapter 1-26. Following the hearing, the board shall either render a

1 decision dismissing the complaint for insufficient evidence or shall impose a penalty pursuant
2 to the provisions of § 49-7A-18 or 49-7A-19.

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

400N0265

SENATE TAXATION COMMITTEE ENGROSSED NO.

SB 42 - 01/31/2007

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

1 FOR AN ACT ENTITLED, An Act to revise the discount provided to tobacco distributors
2 purchasing tobacco stamps and to revise and repeal certain provisions regarding the cigarette
3 tax.

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

5 Section 1. That § 10-50-18 be amended to read as follows:

6 10-50-18. The secretary of revenue and regulation shall secure stamps, of ~~such~~ the design
7 and denomination as ~~he shall prescribe~~ the secretary prescribes, suitable to be affixed to
8 packages of cigarettes as evidence of the payment of the tax imposed by this chapter. ~~He~~ The
9 secretary shall sell ~~such~~ the stamps to licensed distributors at a discount of ~~three and one-half~~
10 two percent of their face value and to no other person.

11 Section 2. That § 10-50-4 be amended to read as follows:

12 10-50-4. The payment of the tax imposed by § 10-50-3 shall be evidenced by the affixing
13 of stamps ~~or by the impression of an imprint by suitable metering machines approved by the~~
14 ~~secretary of revenue and regulation as provided by this chapter~~, to the packages containing the
15 cigarettes as ~~hereinafter indicated. Provided, that~~ provided by this chapter. However, for



1 cigarettes offered by manufacturers for gratis distribution as samples, ~~such~~ the stamps are not
2 required to be affixed to sample packages if the manufacturer of the cigarette reports and pays
3 the tax directly to the state tax authority.

4 Section 3. That § 10-50-6 be amended to read as follows:

5 10-50-6. Any cigarette on which a tax has been paid, ~~such~~ the payment being evidenced by
6 the affixing of ~~such~~ the stamp ~~or imprint~~, is not subject to a further tax under this chapter.
7 However, any person, who possesses two thousand or more cigarettes that do not bear a tax
8 stamp ~~or imprint~~ indicating that the South Dakota cigarette tax has been paid, shall pay the tax
9 imposed pursuant to § 10-50-3 plus a penalty equal to ten percent of the total tax due.

10 Section 4. That § 10-50-22 be repealed.

11 ~~10-50-22. If the secretary of revenue and regulation determines that it is practicable to stamp~~
12 ~~by impression packages of cigarettes by means of a metering machine, the secretary may, in lieu~~
13 ~~of the distributor affixing stamps as provided by this chapter, authorize any licensed distributor~~
14 ~~to use any metering machine approved by the secretary, such machine to be sealed by the~~
15 ~~secretary of revenue before being used and to be used in accordance with the procedure~~
16 ~~established by rule promulgated by the secretary pursuant to chapter 1-26.~~

17 Section 5. That § 10-50-23 be repealed.

18 ~~10-50-23. Any licensed distributor authorized by the secretary of revenue and regulation to~~
19 ~~affix stamps to packages by means of a metering machine shall file with the secretary a bond~~
20 ~~issued by a surety company licensed to do business in this state in such amount as the secretary~~
21 ~~may fix, conditioned upon the payment of the tax upon cigarettes so stamped, or shall enter into~~
22 ~~a depository agreement with the secretary for the deposit of money or any other property to~~
23 ~~secure payment of the tax and conditioned upon the payment of the tax upon cigarettes. The~~
24 ~~bond shall be in full force and effect for a period of one year and a day after the expiration of~~

1 ~~the bond, unless a certificate be issued by the secretary of revenue and regulation to the effect~~
2 ~~that all taxes due to the state under this chapter have been paid. The depository agreement~~
3 ~~hereinbefore provided shall be in full force and effect for a period of one year and a day after~~
4 ~~the expiration of the same, or until or unless a certificate be issued by the secretary of revenue~~
5 ~~and regulation to the effect that all taxes due to the state under this chapter have been paid.~~

6 Section 6. That § 10-50-24 be repealed.

7 ~~—10-50-24. The secretary of revenue and regulation shall cause each metering machine~~
8 ~~approved by him to be read and inspected at least once a month and shall determine as of the~~
9 ~~time of such inspection the amount of tax due from the distributor using such machine after~~
10 ~~allowing for the discount, if any, as provided in § 10-50-18, which tax shall be due and payable~~
11 ~~to the secretary of revenue upon demand of the secretary or his duly authorized agent.~~

12 Section 7. That § 10-50-24.1 be repealed.

13 ~~—10-50-24.1. The secretary of revenue and regulation may designate and appoint one or more~~
14 ~~county treasurers as agents to read, inspect, sell stamp impressions and collect therefor, from~~
15 ~~any meter machine approved by the secretary and under the procedure established by rule~~
16 ~~promulgated by the secretary pursuant to chapter 1-26. Such county treasurer shall, on or before~~
17 ~~the fifth day of each calendar month, transmit to the secretary of revenue and regulation a report~~
18 ~~showing the number of stamp impressions sold, to whom sold, together with a remittance for~~
19 ~~the stamp impressions sold during the period for which the report is made.~~

20 Section 8. That § 10-50-25 be amended to read as follows:

21 10-50-25. ~~When~~ If the secretary of revenue and regulation ~~shall find~~ finds that the collection
22 of the tax imposed by this chapter would be facilitated thereby, ~~he~~ the secretary may authorize
23 any person, resident or located outside this state, engaged in the business of selling and shipping
24 cigarettes into this state and purchasing at least seventy-five percent of ~~such~~ the cigarettes from

1 the manufacturers thereof, and who is a resident of any state authorizing by law the licensing
2 of nonresidents, including residents of this state, to distribute cigarettes therein, upon complying
3 with the requirements of the secretary of revenue and regulation, to affix or cause to be affixed
4 the stamps required by this chapter on behalf of the purchasers of ~~such the~~ cigarettes, who would
5 otherwise be taxable therefor, ~~and the~~. The secretary of revenue and regulation may sell ~~such~~
6 the stamps to such person as hereinbefore provided, ~~or the secretary of revenue and regulation~~
7 ~~may authorize the use of a metering machine by such person as hereinbefore provided.~~

8 Section 9. That § 10-50-30 be amended to read as follows:

9 10-50-30. Each distributor shall affix or cause to be affixed, in ~~such the~~ manner as the
10 secretary of revenue and regulation may specify in rules promulgated pursuant to chapter 1-26,
11 to each individual package of cigarettes, to cartons containing more than one individual package
12 of three, four, or five cigarettes sold or distributed by such distributor, stamps of the proper
13 denomination, as required by this chapter, ~~or, in lieu thereof, an imprint impressed by means of~~
14 ~~a suitable metering machine approved by the secretary of revenue and regulation. Such. The~~
15 stamps ~~or imprint~~ shall be affixed by a distributor before the cigarettes are transferred out of the
16 distributor's premises, or in lieu thereof the amount of the tax due shall be entered on the invoice
17 and stamps sufficient in denominations and amount shall accompany ~~such the~~ invoice on every
18 delivery of cigarettes.

19 Section 10. That § 10-50-31 be amended to read as follows:

20 10-50-31. Each dealer upon opening any shipping package containing any unstamped
21 taxable articles for purposes of sale or delivery to consumers, shall immediately affix ~~or imprint~~
22 the tax stamps required by this chapter.

23 Section 11. That § 10-50-32 be amended to read as follows:

24 10-50-32. No person, other than a person licensed pursuant to § 10-50-9, may sell, offer for

1 sale, display for sale, or possess with intent to sell, advertise for sale, ship or cause to be
2 shipped, or possess with intent to deliver to another person, any cigarettes which do not bear
3 stamps ~~or an imprint impressed by a suitable metering machine approved by the secretary as~~
4 ~~provided by this chapter~~, evidencing the payment of the tax imposed by this chapter.

5 A violation of this section is a Class 2 misdemeanor. Any subsequent violation is a Class
6 felony.

7 Section 12. That § 10-50-35 be amended to read as follows:

8 10-50-35. Any cigarettes found at any place in this state without stamps affixed thereto ~~or~~
9 ~~without bearing the imprint impressed by a suitable metering machine approved by the secretary~~
10 ~~of revenue and regulation~~ as required by this chapter unless ~~such~~ the cigarettes ~~shall be~~ are in
11 the possession of a licensed distributor or wholesaler in the original unopened shipping package
12 or unless they ~~shall be~~ are in a course of transit from without this state and consigned to a
13 licensed distributor or a licensed wholesaler, are declared to be contraband goods and may be
14 seized by the secretary, ~~his~~ the secretary's agents, or employees, or by any ~~peace officer~~ law
15 enforcement of this state ~~when~~ if directed by the secretary to do so, without a warrant.

16 Section 13. That § 10-50-80 be amended to read as follows:

17 10-50-80. No later than twenty days after the end of each calendar quarter, and more
18 frequently if so directed by the secretary, each distributor and wholesaler shall submit
19 information concerning each nonparticipating manufacturer as the secretary requires to facilitate
20 compliance with §§ 10-50-72 to 10-50-92, inclusive, including, a list by brand family of the
21 total number of cigarettes or, in the case of roll-your-own, the equivalent stick count, for which
22 the distributor or wholesaler affixed cigarette tax stamps ~~or imprints~~ to a cigarette package, or
23 otherwise paid the cigarette tax due during the previous calendar quarter. The distributor or
24 wholesaler shall maintain and make available to the secretary all invoices and documentation

1 of sales of all nonparticipating manufacturer cigarettes and any other information relied upon
2 in reporting to the secretary for a period of six years. The secretary may, in addition to any other
3 provision of law, impose and collect a monetary penalty in an amount not to exceed five
4 hundred dollars per day, for the failure of a distributor or wholesaler to timely or accurately
5 comply with this section. Any monetary penalty collected pursuant to this section shall be
6 deposited in the state general fund.

7 Section 14. That § 10-50-82 be amended to read as follows:

8 10-50-82. No distributor or wholesaler or other person may:

- 9 (1) Affix a South Dakota cigarette tax stamp ~~or imprint~~ to a package or other container
10 of cigarettes, or pay South Dakota cigarette tax on cigarettes of a tobacco product
11 manufacturer or brand family not included in the directory; or
- 12 (2) Sell or distribute, or acquire, hold, own, possess, transport, import, or cause to be
13 imported, cigarettes of a tobacco product manufacturer or brand family not included
14 in the directory that the distributor, wholesaler, or other person knows or should
15 know are intended for distribution or sale in this state.

16 The secretary may, in addition to any other provision of law, impose and collect a monetary
17 penalty in an amount not to exceed the greater of five hundred percent of the retail value of the
18 cigarettes or five thousand dollars for each violation of this section by a distributor or
19 wholesaler. Any monetary penalty collected pursuant to this section shall be deposited in the
20 state general fund.

21 Section 15. That § 10-50B-6 be amended to read as follows:

22 10-50B-6. For the purposes of §§ 10-50B-1 to 10-50B-10, inclusive, the term, units sold,
23 means the number of individual cigarettes sold in the state by the applicable tobacco product
24 manufacturer, whether directly or through a distributor, retailer, or similar intermediary or

1 intermediaries, during the year in question, as measured by excise taxes collected by the state
2 on packs bearing the excise tax stamp ~~or imprint~~ of the state, or on roll-your-own tobacco. The
3 secretary of revenue and regulation shall promulgate, pursuant to chapter 1-26, such rules as are
4 necessary to obtain information from any licensee, licensed under the authority of the
5 Department of Revenue and Regulation, to ascertain the amount of state excise tax paid on the
6 cigarettes of such tobacco product manufacturer for each year. The Department of Revenue and
7 Regulation may provide information obtained pursuant to this section as is necessary for a
8 tobacco product manufacturer to compute its escrow payment under § 10-50B-7.

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

429N0104

SENATE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **SB 82** - 02/05/2007

Introduced by: Senators Dempster, Albers, Gray, Hanson (Gary), Heidepriem, Hunhoff, and McCracken and Representatives Hargens, Gillespie, Howie, Moore, Rave, Rhoden, and Rounds

1 FOR AN ACT ENTITLED, An Act to revise certain fees charged by sheriffs.

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

3 Section 1. That § 7-12-18 be amended to read as follows:

4 7-12-18. The sheriff shall charge and remit the following:

5 (1) For serving an order of arrest with commitment or bail bond and return, ~~ten~~ twenty-
6 five dollars;

7 (2) ~~For each search on a search warrant, four dollars;~~

8 ~~—(3) For arresting under search warrant, each defendant, six dollars;~~

9 ~~—(4) For serving summons, complaint, warrant of attachment, affidavit, notice and~~
10 ~~undertaking in claim and delivery, or injunction, order to show cause, citation, or~~
11 ~~other process, and return thereof, sixteen dollars and fifty cents~~ of the instrument,

12 twenty-five dollars for all such process or instruments served at the same time upon
13 the same person regardless of the capacities in which such person is served, ~~but,~~

14 However, for all such process or instruments served upon another such person at



- 1 approximately the same time at the same place, five dollars;
- 2 ~~(5)~~(3) For serving subpoena for witness, each person, ~~seven dollars and fifty cents~~ ten
- 3 dollars;
- 4 ~~(6)~~ For taking and filing undertaking in claim and delivery or other indemnification to
- 5 be furnished to and approved by the sheriff, six dollars;
- 6 ~~(7)~~(4) For traveling expenses in cars or planes owned by the sheriff, or necessary emergency
- 7 ~~vehicles~~ a motor vehicle, a minimum mileage allowance of at least three cents over
- 8 and above the rate set for state employees by the State Board of Finance but not more
- 9 than six cents above the rate set for state employees by the State Board of Finance,
- 10 as determined by the board of county commissioners, for each mile actually and
- 11 necessarily traveled by ~~car~~, motor vehicle. For traveling expenses in a private plane,
- 12 a mileage allowance of ten cents above the rate set for state employees by the State
- 13 Board of Finance for each mile actually and necessarily traveled by private plane;
- 14 ~~except.~~ However, actual cost may be paid for travel by train, bus, plane, or other
- 15 commercial vehicle;
- 16 ~~(8)~~(5) For serving writ of execution and return ~~thereof of the instrument~~, whether satisfied
- 17 or unsatisfied, ~~sixteen~~ thirty-five dollars;
- 18 ~~(9)~~(6) For levying writ of possession, ~~eleven~~ twenty-five dollars. However, if the sale of the
- 19 property levied upon is not subsequently held, the actual costs or expenses associated
- 20 with levying writ of possession shall be paid;
- 21 ~~(10)~~ For serving notice upon each juror who refuses or neglects to accept service of
- 22 summons mailed by the clerk, four dollars, and twenty cents for each mile actually
- 23 and necessarily traveled;
- 24 ~~(11)~~ For each person not on the regular panel called as a juror during any term of court by

1 order of the court, two dollars, and fifteen cents for each mile actually and necessarily
2 traveled;

3 ~~—(12) For summoning special jury, for each person impaneled, two dollars;~~

4 ~~—(13) For serving notice of motion or other notice or order of court, two dollars;~~

5 ~~—(14) For executing writ of habeas corpus and return, three dollars and twenty-five cents;~~

6 ~~—(15) For serving writ of restitution and return, eight dollars;~~

7 ~~—(16) For calling inquest to appraise any goods and chattels which the sheriff may be
8 required to have appraised, four dollars; and to each appraiser to be taxed as cost, ten
9 dollars;~~

10 ~~(17)~~(7) For advertisement of sale in newspaper, in addition to printing, ~~seven~~ twenty-
11 five dollars;

12 ~~(18)~~(8) For posting notices of sale of real property, ~~five~~ twenty-five dollars, and
13 mileage;

14 ~~(19)~~(9) For executing writ or order of partition, ~~thirteen~~ twenty-five dollars;

15 ~~(20)~~(10) For making deed for land sold on execution or order of sale, ~~twenty-six~~ fifty
16 dollars except no fee is charged when the deed only requires the sheriff's
17 signature;

18 ~~(21)~~(11) In addition to the applicable fees and expenses, a commission on all money
19 received and disbursed by the sheriff on execution or order of sale, order of
20 attachment, decree or on sale of real property or personal property, for each
21 dollar not exceeding four hundred dollars, ~~nine~~ eleven cents; for each dollar
22 above four hundred dollars, and not exceeding one thousand dollars, ~~five~~
23 seven cents; for each dollar above one thousand dollars, ~~not to exceed and not~~
24 exceeding fifteen thousand dollars, five cents; for each dollar above fifteen

1 thousand dollars, and not exceeding twenty-five thousand dollars, three cents;
 2 ~~but. However,~~ in no case may the commission be less than ~~fifteen~~ twenty-five
 3 dollars. The commissions shall be included as a part of the cost of execution,
 4 order of sale, order of attachment, decree, or on sale of real or personal
 5 property, which shall be paid by the debtor out of the proceeds. However, in
 6 all cases of redemption prior to the sale, the sheriff is entitled to the
 7 commission as stated above, to be paid by the redemptioner as a cost of the
 8 redemption;

9 ~~(22)~~(12) For cases in the circuit court, if persons, in whose favor an execution or order
 10 of sale is issued, bid in the property sold on execution or decree, the sheriff or
 11 officer making the sale shall receive the following compensation: If the
 12 amount for which the property is bid in is one thousand dollars or less, the sum
 13 of twenty dollars; ~~if.~~ If the amount for which the property is bid in is more
 14 than one thousand dollars, the sum of ~~forty~~ fifty dollars;

15 ~~(23)~~(13) For making a sale of real property under a foreclosure of mortgage by
 16 advertisement, the same fees as for the sale of real property under a judgment
 17 of foreclosure and sale of real property; and

18 ~~(24)~~(14) If personal property is taken by the sheriff on execution or warrant of
 19 attachment and applied in the satisfaction of the debt without sale, the same
 20 percentage on the appraised value of the property as in the case of a sale and
 21 all additional reasonable and necessary costs and expenses incurred in
 22 executing the duties of sheriff ~~under this chapter to the extent that such costs~~
 23 ~~and expenses are not otherwise reimbursed~~ including expenses associated with
 24 the removal of property from the premises.

- 1 No fee may be charged in any action under § 25-10-3, 25-10-6, 22-19A-8, or 22-19A-12.
- 2 The fees established pursuant to this section shall be used for law enforcement purposes.

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

336N0190

SENATE ENGROSSED NO. **SB 84** - 02/20/2007

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

Introduced by: Senators Hansen (Tom), McNenny, and Peterson (Jim) and Representatives Dennert, Elliott, Hargens, Juhnke, Lust, Sigdestad, and Turbiville

1 FOR AN ACT ENTITLED, An Act to increase the maximum fees for conducting weights and
2 measures inspections and testing.

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

4 Section 1. That § 37-21-9.1 be amended to read as follows:

5 37-21-9.1. The Division of Commercial Inspection and Licensing shall charge and collect
6 a ~~maximum ten dollar~~ fee for each inspection and testing of any weight, measure, and weighing
7 and measuring device. From July 1, 2007, through June 30, 2008, the fee is sixteen dollars.
8 From July 1, 2008, through June 30, 2009, the fee is twenty-two dollars. On July 1, 2009, and
9 thereafter, the fee is twenty-eight dollars. The fee shall be paid upon demand of the division by
10 the person, firm, or corporation owning or operating the weight, measure, or weighing or
11 measuring device inspected or tested. A ~~maximum fee of five dollars~~ shall be charged and
12 collected for each inspection and testing of gasoline and diesel stationary fuel pump meters.
13 From July 1, 2007, through June 30, 2008, the fee is eight dollars. From July 1, 2008, through
14 June 30, 2009, the fee is eleven dollars. On July 1, 2009, and thereafter, the fee is fourteen
15 dollars. A ~~maximum fee of fifteen dollars~~ shall be charged and collected for each inspection and



1 testing of gasoline and diesel high speed stationary fuel pump meters and for refined fuel truck
2 meters. From July 1, 2007, through June 30, 2008, the fee is twenty-five dollars. From July 1,
3 2008, through June 30, 2009, the fee is thirty-six dollars. On July 1, 2009, and thereafter, the
4 fee is forty-six dollars. A maximum fee of fifteen dollars shall be collected for refined fuel truck
5 meters. If a special or emergency inspection is requested, a charge, not to exceed the actual cost
6 of such inspection, including costs for personnel, equipment, and mileage, shall be made and
7 assessed against the requesting individual or device owner. ~~All fees, except those for special or~~
8 ~~emergency inspection, shall be promulgated by the secretary of the Department of Public Safety~~
9 ~~pursuant to chapter 1-26.~~ One-half of the inspection program funding shall be derived from the
10 general fund and the other half from fees collected pursuant to this Act.

11 Section 2. That § 37-22-10 be amended to read as follows:

12 37-22-10. The Division of Commercial Inspection and Licensing shall charge and collect
13 a fee for each inspection or testing of scales. The fee shall be paid upon demand of the division
14 by the person, firm, or corporation owning or operating the scale inspected or tested. The
15 ~~maximum~~ schedule of fees is as follows:

- 16 (1) Up to and including 2,000 pounds capacity ~~---fifteen dollars;~~
17 (a) From July 1, 2007, through June 30, 2008 - twenty dollars;
18 (b) From July 1, 2008, through June 30, 2009 - twenty-four dollars;
19 (c) Beginning July 1, 2009 - twenty-nine dollars;
20 (2) 2,001 to 5,000 pounds capacity, inclusive ~~---twenty-five dollars;~~
21 (a) From July 1, 2007, through June 30, 2008 - thirty-three dollars;
22 (b) From July 1, 2008, through June 30, 2009 - forty-one dollars;
23 (c) Beginning July 1, 2009 - forty-eight dollars;
24 (3) 5,001 to 40,000 pounds capacity, inclusive ~~---sixty dollars;~~

- 1 (a) From July 1, 2007, through June 30, 2008 - sixty-seven dollars;
- 2 (b) From July 1, 2008, through June 30, 2009 - seventy-five dollars;
- 3 (c) Beginning July 1, 2009 - eighty-two dollars;
- 4 (4) ~~Over 40,000 pounds capacity--seventy-five dollars;~~
 - 5 (a) From July 1, 2007, through June 30, 2008 - eighty-four dollars;
 - 6 (b) From July 1, 2008, through June 30, 2009 - ninety-four dollars;
 - 7 (c) Beginning July 1, 2009 - one hundred three dollars;
- 8 (5) ~~All livestock scales--one hundred dollars;~~
 - 9 (a) From July 1, 2007, through June 30, 2008 - one hundred twenty-four dollars;
 - 10 (b) From July 1, 2008, through June 30, 2009 - one hundred forty-eight dollars;
 - 11 (c) Beginning July 1, 2009 - one hundred seventy-three dollars.

12 If a special or emergency inspection is requested, a charge, not to exceed the actual cost of
 13 such inspection, including costs for personnel, equipment, and mileage, shall be made and
 14 assessed against the requesting individual or device owner. One-half of the inspection program
 15 funding shall be derived from the general fund and the other half from fees collected pursuant
 16 to this Act.

17 Section 3. That § 34-39-3 be amended to read as follows:

18 34-39-3. The Department of Public Safety may test all weighing and measuring devices used
 19 in the wholesale or retail sale of liquefied petroleum gas, either in liquid or vapor form, and
 20 shall condemn or reject for repair, any device which is found either to be inaccurate or does not
 21 clearly state the quantity of liquefied petroleum gas, either in liquid or vapor form, in pounds,
 22 gallons, cubic feet, or other unit approved by the department.

23 The department shall charge and collect a ~~maximum twenty-dollar~~ fee for each test. ~~The fee~~
 24 ~~shall be promulgated by the secretary of public safety pursuant to chapter 1-26.~~ From July 1,

1 2007, through June 30, 2008, the fee is thirty-six dollars. From July 1, 2008, through June 30,
2 2009, the fee is fifty-two dollars. On July 1, 2009, and thereafter, the fee is sixty-eight dollars.
3 Revenue from the fee shall be deposited into the state general fund.

4 Any inspector employed by the department may enter and examine any liquefied petroleum
5 gas plant for safety standard purposes no more than every two years, except for any reinspection
6 resulting from a deficiency. The department shall charge and collect a ~~maximum one hundred~~
7 ~~dollar~~ fee for each inspection. ~~The fee shall be promulgated by the secretary of public safety~~
8 ~~pursuant to chapter 1-26. From July 1, 2007, through June 30, 2008, the fee is fifty-eight dollars.~~
9 From July 1, 2008, through June 30, 2009, the fee is seventy-six dollars. On July 1, 2009, and
10 thereafter, the fee is ninety-four dollars.

11 For the purposes of this section, a liquefied petroleum gas plant is a retail distribution
12 facility with a capacity of at least eight thousand gallons. One-half of the inspection program
13 funding shall be derived from the general fund and the other half from fees collected pursuant
14 to this Act.

15 Section 4. That § 37-21A-3 be amended to read as follows:

16 37-21A-3. The director shall charge an annual registration fee ~~of twenty-five dollars per for~~
17 ~~service agency plus five dollars per agencies and for registered serviceman~~ servicemen to cover
18 administrative costs. From July 1, 2007, through June 30, 2008, the fee for each agency is forty
19 dollars and the fee for each serviceman is seven dollars. From July 1, 2008, through June 30,
20 2009, the fee for each agency is fifty-five dollars and the fee for each serviceman is eight
21 dollars. On July 1, 2009, and thereafter, the fee for each agency is sixty-nine dollars and the fee
22 for each serviceman is ten dollars. The fee shall be paid when the registration or renewal
23 application is made. One-half of the inspection program funding shall be derived from the
24 general fund and the other half from fees collected pursuant to this Act.

1 Section 5. That § 37-21A-7 be amended to read as follows:

2 37-21A-7. A registered serviceman and a registered service agency shall submit, annually
3 to the director, for examination and certification, any standards and testing equipment that are
4 used, or are to be used, in the performance of the service and testing functions with respect to
5 weighing and measuring devices for which competence is registered. No registered service
6 person or agency may use in servicing any commercial weighing or measuring device any
7 standards or testing equipment that have not been certified by the director. The Department of
8 Public Safety shall charge a fee ~~not to exceed the actual cost of~~ for such examination and
9 certification, ~~including costs for personnel, equipment, and mileage.~~ From July 1, 2007, through
10 June 30, 2008, the fee is sixty-two dollars per hour. From July 1, 2008, through June 30, 2009,
11 the fee is seventy-nine dollars per hour. On July 1, 2009, and thereafter, the fee is ninety-six
12 dollars per hour. One-half of the inspection program funding shall be derived from the general
13 fund and the other half from fees collected pursuant to this Act.

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

880N0087

SENATE ENGROSSED NO. **SB 95** - 02/05/2007

Introduced by: Senators Knudson, Abdallah, Dempster, Gray, Hanson (Gary), Heidepriem, Jerstad, Katus, Koetzle, Lintz, McCracken, Napoli, Nesselhuf, and Peterson (Jim) and Representatives Haverly, Burg, Cutler, Dennert, Dykstra, Gillespie, Hargens, Hunt, Juhnke, Kirkeby, Krebs, Lucas, McLaughlin, Miles, Peters, Thompson, Turbiville, Weems, and Willadsen

1 FOR AN ACT ENTITLED, An Act to establish a State Board of Technical Institutes, to provide
2 for its powers, duties, and responsibilities, and to provide for the transfer of authority over
3 public postsecondary technical education from the Department of Education to the State
4 Board of Technical Institutes.

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

6 Section 1. The control of the public technical institutes of the state is vested in a board of
7 nine members, designated as the State Board of Technical Institutes. The state board shall
8 consist of two at-large members appointed by the Governor; one member of the Board of
9 Regents appointed by the Governor; one regional board member from Lake Area Technical
10 Institute; one regional board member from Mitchell Technical Institute; one regional board
11 member from Southeast Technical Institute; one regional board member from Western Dakota
12 Technical Institute; the secretary of the Department of Labor; and the secretary of the
13 Department of Tourism and State Development. If a regional board for a particular institute has
14 not yet been established, the sponsoring school district may appoint a member to the State Board



1 of Technical Institutes until such time as a regional board for that institute has been established.

2 Section 2. All appointed members shall serve three-year terms. No appointed member may
3 serve more than three consecutive terms. The regional representatives to the state board shall
4 be selected and appointed by the regional boards. The four regional board members shall be
5 appointed by the appropriate regional board, and each regional appointed member shall be a
6 current member of that institute's regional board of directors at the time of the member's initial
7 appointment to the state board. No member of this board may be a member of the South Dakota
8 Board of Education.

9 Section 3. If a vacancy occurs as provided in § 3-4-1, the original appointing authority shall
10 fill such vacancy, subject to the same conditions as set forth in the original appointment. The
11 appointee shall serve for the balance of the unexpired term.

12 Section 4. Meetings may be held on the call of the president or by the joint request of a
13 majority of the members. In either case, due and reasonable notice shall be given.

14 The affirmative vote of a majority of the members of the state board is required to take
15 official action. The state board shall record their minutes which shall be open to the public. All
16 such meetings of the state board shall be open to the public except when personnel matters and
17 privileged matters between the board and its attorney are being discussed. If such meetings are
18 held, the board shall limit the topics discussed or acted upon to such matters only.

19 Section 5. At the annual meeting, the state board shall elect a president from among the
20 members, whose term of office shall be for one year.

21 Section 6. The members of the state board shall be paid per diem compensation and
22 allowable expenses for their services on the board pursuant to § 4-7-10.4. However, the
23 secretary of the Department of Labor and the secretary of the Department of Tourism and State
24 Development are prohibited from receiving per diem compensation and allowable expenses

1 pursuant to § 3-8-3 and any state employee serving on the board is prohibited from receiving
2 per diem compensation pursuant to § 3-8-4.1.

3 Section 7. The state board may promulgate and enforce rules pursuant to chapter 1-26,
4 pertaining to the operation, control, and supervision of technical institutes. The state board shall
5 establish a uniform tuition rate, which does not include student fees, for all technical institutes.

6 Section 8. The state board shall provide overall policies, goals, and objectives for the
7 management of public postsecondary technical education to ensure that the needs of the public,
8 business, and industry are met to the highest possible degree and in the most cost-effective and
9 efficient manner.

10 Section 9. The state board shall select and employ an executive director and set the
11 executive director's annual compensation, duties, and responsibilities. The state board shall
12 provide overall policy guidance to the executive director, who is responsible for day-to-day
13 operations of the state board.

14 Section 10. The state board shall approve changes in organizational structure or functional
15 assignments for the executive director.

16 Section 11. The state board shall delegate to the executive director the authority to hire and
17 fire state board employees and to establish salaries in conformance with state laws and
18 regulations.

19 Section 12. The state board shall review and approve recommendations for annual funding
20 requests for all public technical institutes and make recommendations to the Governor and the
21 Legislature.

22 Section 13. The state board shall consider and act upon the following:

- 23 (1) Recommendations regarding legislation proposed for postsecondary technical
24 education;

- 1 (2) All actions required by law to be taken by the state board;
- 2 (3) Establishment of committees related to statewide mission of public technical
- 3 institutes; and
- 4 (4) Approve all new diploma or degree granting or awarding programs at any technical
- 5 institute.

6 Section 14. The state board shall represent the state with other agencies in South Dakota,

7 in other states, and at the national level.

8 Section 15. The state board shall make recommendations for enhancing the mission of

9 public technical institutes for the benefit of the state.

10 Section 16. The state board shall establish an annual report and guidelines for reporting for

11 the technical institutes.

12 Section 17. The state board shall facilitate institutional and program accreditation,

13 compliance with the North Central Association Higher Learning Commission, and other

14 approved industry accreditations.

15 Section 18. The state board shall approve technical institute requests for purchase,

16 construction, or alteration of facilities that involve the expenditure of state funds.

17 Section 19. Upon passage of an authorizing resolution by the school board of any school

18 district owning and operating a postsecondary technical institute, the technical institute shall be

19 established as an independent public education entity which shall be attached to the Department

20 of Tourism and State Development for administrative and reporting purposes. The authorizing

21 resolution adopted by the school district owning and operating the postsecondary technical

22 institute shall specify the assets and liabilities being transferred to the new independent technical

23 institute agency. The authorizing resolution shall transfer to the new independent technical

24 institute agency substantially all of the school district's assets, including real estate, which are

1 primarily used in the ordinary course of business in the existing operation of the school district's
2 existing postsecondary technical institute including, without limitation, all rights, title, and
3 interest of the school district in and to any sublease of facilities between the Board of Education
4 and the school district entered into in connection with a program of the Health and Educational
5 Facilities Authority under § 1-16A-74. In no event is the technical institute obligated to assume
6 any liabilities not related to assets received by the technical institute or related to the ordinary
7 operations of the technical institute. School districts are expressly authorized to transfer primary
8 responsibility for repayment of all debt related to buildings and real estate transferred to the new
9 independent technical institute agency including obligations incurred in connection with the
10 program of the Health and Educational Facilities Authority under § 1-16A-74. The authorizing
11 resolution adopted by the school district shall establish for the independent technical institute
12 agency a seven to nine member regional board of directors which shall have the duties and
13 powers set forth in this Act. The regional board membership shall include representatives of
14 business and industry leaders from the service area of the technical institute, one or more
15 members of the local school board in which the institute is located, and persons experienced in
16 economic and work force development in its region. The terms on the regional board of
17 directors for members of the local school board shall expire at the same time as their local
18 school board term expires.

19 The initial regional board members shall be appointed for initial one, two, and three year
20 terms staggered so that the terms of approximately one-third of the members of the board expire
21 at any one time. Thereafter, the terms of the board members shall be for three years. The local
22 school district currently owning and operating the technical institute shall appoint the initial
23 members of the regional board in it authorizing resolution and specify the original term of such
24 board member. Thereafter, the regional boards shall elect successors for those directors whose

1 terms are expiring by vote of the members of the board whose terms are not expiring. However,
2 no elected member may take office as a regional board member until the member's election has
3 been confirmed and approved by the local school board in which the institute is located. If the
4 local school board fails to approve or reject a successor member selected by a regional board
5 within sixty days of the date when the local school board receives notice of such selection by
6 the regional board, the proposed regional board member is deemed approved. The Mitchell,
7 Rapid City, Sioux Falls, and Watertown school board shall adopt an authorizing resolution as
8 provided in this section no later than October 31, 2011. The authorizing resolution adopted by
9 a school board pursuant to this section is subject to review and approval by the secretary of the
10 Department of Tourism and State Development. The secretary shall act on an authorizing
11 resolution within thirty days of receipt of the authorizing resolution from the adopting school
12 district. If the secretary does not approve the authorizing resolution, the secretary shall notify
13 in writing the adopting school district of his or her objections. The secretary may fail to approve
14 an authorizing resolution only due to the failure of the authorizing resolution to meet the
15 standards set forth in this section related to the content of the authorizing resolution. Upon
16 receipt of a letter from the secretary detailing his or her objections to the initial authorizing
17 resolution, a school district shall adopt a modified authorizing resolution complying with the
18 secretary's objections. All authorizing resolutions shall become fully implemented no later than
19 July 1, 2012.

20 Section 20. The regional boards of directors shall implement state board policies and goals
21 to provide management and direction to ensure that the regional needs of the public, business,
22 and industry are met to the highest possible degree and in the most cost-effective and efficient
23 manner. Each regional board shall oversee the management of its institute, which shall be in
24 accordance with the established objectives and the policies of the state board.

1 Section 21. The policies of each regional board may be amended or adopted by the regional
2 board acting collectively at any regular meeting of the regional board subject to the regional
3 board's policies. All meetings of the regional boards are subject to the South Dakota open
4 meetings law.

5 Section 22. The Lake Area Technical Institute region is hereby established. The Lake Area
6 Technical Institute region includes all of Campbell, McPherson, Brown, Marshall, Roberts,
7 Walworth, Edmunds, Day, Potter, Faulk, Spink, Clark, Codington, Grant, Hamlin, Deuel,
8 Kingsbury, and Brookings Counties.

9 Section 23. The Mitchell Technical Institute region is hereby established. The Mitchell
10 Technical Institute region includes all of Sully, Hyde, Hand, Beadle, Hughes, Lake, Lyman,
11 Buffalo, Jerauld, Sanborn, Miner, Brule, Aurora, Davison, Hanson, Tripp, Gregory, Charles
12 Mix, Douglas, Hutchinson, Bon Homme, and Yankton Counties.

13 Section 24. The Southeast Technical Institute region is hereby established. The Southeast
14 Technical Institute region includes all of Moody, McCook, Minnehaha, Turner, Lincoln, Clay,
15 and Union Counties.

16 Section 25. The Western Dakota Technical Institute region is hereby established. The
17 Western Dakota Technical Institute region includes all of Harding, Perkins, Corson, Butte,
18 Meade, Ziebach, Dewey, Lawrence, Haakon, Stanley, Pennington, Jones, Custer Fall River,
19 Shannon, Jackson, Mellette, Bennett, and Todd Counties.

20 Section 26. Each regional board, acting on behalf of its own technical institute, shall:

- 21 (1) After a public hearing, adopt an annual budget of revenues and expenditures. The
22 regional board shall establish student fees at its technical institute and shall charge
23 the uniform tuition rate as established by the state board. Each regional technical
24 institute shall retain in its accounts and appropriate in its budget all revenues

- 1 generated at that technical institute by student tuition and fees;
- 2 (2) Review all new education programs for its technical institute and the deletion or
3 modification of existing programs;
- 4 (3) Maintain awareness of, and communicate to the president of its technical institute,
5 local industry, and community needs for programs and services to be provided by the
6 technical institute;
- 7 (4) Review and approve the local plan for evaluating its technical institute and the
8 processes and outcomes of its student services and instructional programs;
- 9 (5) Review, approve, and submit to the state board, for information and comment, an
10 annual report regarding the performance of its technical institute relative to its goals
11 and objectives, including meeting the ongoing and short-term training needs of
12 business, industry, and the regional community at large, in an effective and efficient
13 manner;
- 14 (6) Confer the awarding of all certificates, diplomas, and degrees to students completing
15 approved programs in the regular instructional program of the technical institute,
16 having assured that all standards, competencies, and other requirements of the state
17 board and the technical institute have been satisfied;
- 18 (7) Review, approve, and assure implementation of its technical institute's plan to
19 identify, on a periodic and timely basis, the current and future training needs of
20 business, industry, and the community at large;
- 21 (8) Review and approve the strategic plan, goals, and objectives for its technical
22 institute;
- 23 (9) Review on a quarterly basis its technical institute's fiscal report of receipts,
24 expenditures, and fund balances;

- 1 (10) Assure that the technical institute operates at all times in accordance with the policies
- 2 of the state board;
- 3 (11) Make any other recommendations as deemed appropriate to the president or the state
- 4 board regarding the improvement of its technical institute's operations or
- 5 postsecondary technical education in general;
- 6 (12) Employ, dismiss, and establish the salary of the technical institute president;
- 7 (13) Approve salaries and employment contracts for all staff;
- 8 (14) Establish policies for approval of contracts for services for its technical institute;
- 9 (15) Require an annual audit of all finances and procedures and submit the audit report to
- 10 the appropriate agencies; and
- 11 (16) Approve the operational policies for the technical institute.

12 Section 27. The State Board of Technical Institutes shall be attached to the Department of

13 Tourism and State Development for administrative and reporting purposes.

14 Section 28. The technical institutes created pursuant to section 19 of this Act are political

15 subdivisions of the State of South Dakota.

16 Section 29. Technical institutes may not construct student union buildings and recreational

17 facilities for technical institute students. This restriction includes the use of student fees to pay

18 for student union buildings and recreational or multi-use facilities. The provisions of this section

19 may not be construed as a restriction of construction or operation of regular cafeteria or multi-

20 use facilities for students at technical institutes. The provisions of this section do not apply to

21 any multi-use facility constructed and placed in operation prior to January 1, 2007.

22 Section 30. The continuing contract provisions set forth in §§ 13-43-9.1 to 13-43-11,

23 inclusive, do not apply to any person employed in a public technical institute. At least sixty days

24 prior to the termination of an employee in a technical institute, the governing board shall notify

1 in writing the employee of such termination.

2 Section 31. A technical institute may award an associate in applied sciences degree. The
3 state board may promulgate rules pursuant to chapter 1-26 providing for approval of programs
4 in technical institutes leading to an associate in applied science degree. In approving any degree
5 granting program, the state board shall consider curriculum, required hours, quality of
6 instruction, minimum standards for entry into the program, and standards for program
7 completion.

8 Section 32. That § 13-39-1.2 be amended to read as follows:

9 13-39-1.2. Terms used in this chapter, mean:

- 10 (1) "Adult vocational education," the training provided to upgrade or update the
11 occupational skills of persons who are preparing to, or have already, entered an
12 occupation;
- 13 (2) "Center board," the governing body of a multi-district center;
- 14 (3) "Division," the Division of Education Services and Resources of the Department of
15 Education;
- 16 (4) "Facilities," buildings, rooms, property, and permanent equipment, including
17 vehicles, used to provide vocational education;
- 18 (5) "LEA," a local education agency limited to public school districts and the legal
19 entities that a school district is authorized to establish;
- 20 (6) "Multi-district center," a multi-district secondary occupational vocational education
21 center;
- 22 (7) "Multi-use facility," a structure or part of a structure for student or faculty use as a
23 lounge area, cafeteria, classroom, or large group area not operated as a student union
24 building in which student fees are charged and utilized to pay for construction and

1 maintenance of a facility under the direct or indirect control of the students;

2 (8) "Participating district," a school district which has voting representation on a
3 multi-district center board;

4 (9) ~~"Postsecondary technical institute," a public nonprofit school legally authorized to
5 provide public postsecondary technical education which does not culminate in a
6 baccalaureate degree at that school;~~

7 (10) "Secretary," the state secretary of education;

8 (11) "State board," the South Dakota Board of Education;

9 (12) "Vocational education," organized programs at the secondary, ~~postsecondary,~~ or adult
10 levels directly related to the preparation of individuals for paid or unpaid
11 employment, or for the additional preparation for a career requiring other than a
12 baccalaureate or advanced degree.

13 Section 33. That § 13-39-9 be amended to read as follows:

14 13-39-9. The director has general control and supervision over all vocational education in
15 all public secondary schools, ~~public postsecondary institutions not under the control of the~~
16 ~~Board of Regents~~ and all other vocational education functions assigned to him or her by the
17 secretary of education.

18 Section 34. That § 13-39-18 be repealed.

19 ~~13-39-18. The director shall submit all requests for new programs from the postsecondary
20 technical institutes in the state to the state board for action.~~

21 Section 35. That § 13-39-19 be amended to read as follows:

22 13-39-19. The secretary of education may distribute funds appropriated ~~to him~~ by the
23 Legislature or granted by any federal agency to the state in accordance with chapter 4-8B, for
24 vocational education ~~in public secondary and postsecondary technical institutes~~ in the state in

1 accordance with a state plan or plans adopted by the South Dakota Board of Education. The aid
2 disbursed to the different schools of the state and all expenses incurred in the administration of
3 the provisions of any federal acts relating to vocational education shall be paid out of the funds
4 of the secretary appropriated for that purpose and from the federal funds allotted to the State of
5 South Dakota for similar purposes. The state treasurer is the custodian of all money paid to the
6 state from federal appropriations for the purpose of vocational education, and shall disburse the
7 funds on warrants issued by the state auditor upon vouchers approved by the director. The
8 secretary of education shall authorize the director to submit vouchers to the state auditor for the
9 amount payable as state and federal aid to each school approved under the provisions of this
10 chapter. Upon receipt of the vouchers, the state auditor shall draw warrants on the state treasury
11 in favor of the treasurer of the public secondary ~~and postsecondary technical~~ institute for the
12 sum approved by the secretary.

13 Section 36. That § 13-39-26 be amended to read as follows:

14 13-39-26. The provisions of this chapter do not apply to private business schools,
15 postsecondary technical institutes, or private vocational institutions except that the secretary of
16 education and LEAs may enter into contracts with these schools and institutions to provide
17 vocational education.

18 Section 37. That § 13-39-34 be repealed.

19 ~~13-39-34. Any LEA proposing to operate a postsecondary technical institute or establish an~~
20 ~~existing postsecondary technical institute as a separate legal entity may petition the state board~~
21 ~~pursuant to §§ 13-39-35 to 13-39-36, inclusive. The state board may conduct hearings,~~
22 ~~investigate school records, and secure other data relating to the proposed postsecondary~~
23 ~~technical institute, its geographical location, the demography and economy of the area, and any~~
24 ~~other facts relating to the proposed postsecondary technical institute which the state board may~~

1 consider appropriate:

2 Section 38. That § 13-39-35 be repealed.

3 ~~—13-39-35. If the South Dakota Board of Education finds that the classification petitioned for~~
4 ~~would further the educational interests of the state, more nearly equalize the educational~~
5 ~~opportunities in certain phases of technical education to persons in this state who are of the age~~
6 ~~and maturity to pursue study in preparation for entering the labor market, be of potential benefit~~
7 ~~to persons in all communities of the state, and is otherwise in accordance with the plans of the~~
8 ~~state board, it may recommend the petition be approved by the Legislature.~~

9 Section 39. That § 13-39-35.1 be repealed.

10 ~~—13-39-35.1. If the Legislature approves the petition by passing a joint resolution, an LEA~~
11 ~~may operate a postsecondary technical institute. If an LEA begins to operate a postsecondary~~
12 ~~technical institute without the approval required by this section, that school is ineligible for state~~
13 ~~vocational education money. Adult vocational education programs are exempt from the~~
14 ~~provisions of this section.~~

15 Section 40. That § 13-39-35.2 be repealed.

16 ~~—13-39-35.2. The joint resolution passed pursuant to § 13-39-35.1 shall specify the duties and~~
17 ~~powers of a postsecondary technical institute. The resolution may also specify the procedure for~~
18 ~~selecting members of the governing board, which may include local elections for such members.~~
19 ~~A school established pursuant to § 13-39-35.1 may be a distinct legal entity separate and apart~~
20 ~~from the school district or districts which established it.~~

21 Section 41. That § 13-39-36 be repealed.

22 ~~—13-39-36. If the petition is approved by the Legislature, the LEA may establish the proposed~~
23 ~~school and the state board shall classify the school as a postsecondary technical institute. The~~
24 ~~state board shall conduct general supervision as provided in § 13-39-37 and in the rules adopted~~

1 pursuant to chapter 1-26 by the state board.

2 Section 42. That § 13-39-37 be repealed.

3 ~~—13-39-37. The South Dakota Board of Education may adopt rules pursuant to chapter 1-26,~~
4 ~~to be administered by the director, governing the operation and maintenance of postsecondary~~
5 ~~technical institutes which will afford the people of the state, insofar as practicable, an equal~~
6 ~~opportunity to acquire a public technical education. The rules may provide for the following:~~

7 ~~—(1)—Curriculum and standards of instruction and scholarship;~~

8 ~~—(2)—Attendance requirements, age limits of trainees, eligibility for attendance, and tuition~~
9 ~~payments and other charges;~~

10 ~~—(3)—Apportionment and distribution of funds made available to the board for carrying out~~
11 ~~the purposes of §§ 13-39-34 to 13-39-39, inclusive;~~

12 ~~—(4)—Transportation requirements and payments;~~

13 ~~—(5)—General administrative matters;~~

14 ~~—(6)—The submission of the annual budget of the postsecondary technical institute which~~
15 ~~shall include, but is not limited to, a description of programs, a list of staff positions,~~
16 ~~and the amount for supplies and operating expenses associated with the programs~~
17 ~~offered. The rules shall require the budget to include all operating costs of programs,~~
18 ~~including those costs ineligible for reimbursement from federal and state funds, shall~~
19 ~~state the procedure for amending and filing it with the division of education services~~
20 ~~and resources and shall provide that failure to comply with the rules may result in~~
21 ~~withholding of payments from federal and state funds;~~

22 ~~—(7)—The submission of plans of LEAs for new construction or major renovation of~~
23 ~~facilities eligible for reimbursement. The rules regarding these plans shall provide a~~
24 ~~requirement that the LEA, by a written resolution, declare the LEA committed to~~

1 begin construction if the budget of the state board provides the matching funds;

2 ~~—(8)—The promotion and coordination of vocational education; and~~

3 ~~—(9)—The duplication of programs.~~

4 Section 43. That § 13-39-37.1 be repealed.

5 ~~—13-39-37.1. Notwithstanding the provisions of §§ 13-16-6, 13-16-7, and 13-19-7, school~~
6 ~~districts may not construct student union buildings and recreational facilities for postsecondary~~
7 ~~technical institute students. This restriction includes the use of student fees to pay for student~~
8 ~~union buildings and recreational or multi-use facilities. The provisions of this section may not~~
9 ~~be construed as a restriction of construction or operation of regular cafeteria or multi-use~~
10 ~~facilities for students at postsecondary technical institutes.~~

11 Section 44. That § 13-39-38 be repealed.

12 ~~—13-39-38. The secretary of education shall apportion and distribute funds made available for~~
13 ~~postsecondary technical institutes through a formula approved by the South Dakota Board of~~
14 ~~Education to the LEAs having jurisdiction over postsecondary technical institutes to assist in~~
15 ~~maintaining and operating those schools. The use of the funds are subject to rules adopted by~~
16 ~~the state board pursuant to subdivision § 13-39-37(3) and in accordance with the approved state~~
17 ~~plan for vocational education.~~

18 Section 45. That § 13-39-39 be repealed.

19 ~~—13-39-39. The division shall distribute funds to the postsecondary technical institutes under~~
20 ~~the provisions of § 13-39-38 from money appropriated to the division for that purpose, and from~~
21 ~~federal funds allotted to the State of South Dakota for that purpose.~~

22 Section 46. That § 13-39-39.1 be repealed.

23 ~~—13-39-39.1. LEAs operating postsecondary technical institutes shall keep separate the~~
24 ~~accounting and funds for the operation of the postsecondary technical programs. The LEA shall~~

1 ~~deposit receipts, student fees and income from state and federal sources, as well as any other~~
2 ~~receipts incidental to the operation of the postsecondary technical institute, in the fund or funds~~
3 ~~created pursuant to this chapter.~~

4 Section 47. That § 13-39-65 be repealed.

5 ~~—13-39-65. The continuing contract provisions set forth in §§ 13-43-9.1 to 13-43-11,~~
6 ~~inclusive, do not apply to any person employed in a public postsecondary technical institute. At~~
7 ~~least sixty days prior to the termination of an employee in a postsecondary technical institute,~~
8 ~~the governing board shall notify in writing the employee of such termination.~~

9 Section 48. That § 13-39-72 be repealed.

10 ~~—13-39-72. An LEA operating an approved postsecondary vocational school may award an~~
11 ~~associate in applied sciences degree. The state board may promulgate rules pursuant to chapter~~
12 ~~1-26 providing for approval of programs in postsecondary vocational education schools leading~~
13 ~~to an associate in applied science degree. In approving any program, the state board shall~~
14 ~~consider curriculum, required hours, quality of instruction, minimum standards for entry into~~
15 ~~the programs, and standards for program completion.~~

16 Section 49. The provisions of sections 29 to 46, inclusive, of this Act are effective on the
17 date of the first annual meeting of the State Board of Technical Institutes, pursuant to section
18 5 of this Act.

19 Section 50. No technical institute created pursuant to this Act may be deemed to be an
20 educational institution under the control of the Board of Regents pursuant to S.D. Const., Art.
21 XIV, § 3. No technical institute may use the term, college, or the term, community college, as
22 a part of its name, because the mission of the technical institutes is job training and work force
23 development.

24 Section 51. The state board is the lawful successor to the Board of Education with respect

1 to (a) the lease purchase agreement dated as of August 1, 1988, between the Health and
2 Educational Facilities Authority and the Board of Education, as heretofore amended or
3 supplemented, (b) the first supplement to general pledge and escrow agreement between the
4 treasurer, the Board of Education, the Health and Educational Facilities Authority, and the First
5 National Bank in Sioux Falls, dated as of August 1, 1988, as amended and supplemented, (c)
6 the fourth supplement to facility fee tuition collection and deposit agreement dated June 1, 1999,
7 among the treasurer, the Board of Education, the First National Bank in Sioux Falls, and the
8 school districts specified in section 19 of this Act, or their successors, as such agreement has
9 been heretofore amended or supplemented from time to time, and (d) all other agreements
10 related to the foregoing and with respect to vocational education program revenue bonds issued
11 from time to time by the Health and Educational Facilities Authority to finance property used
12 by the technical institutes.

13 Section 52. The state board has all necessary power and authority to enter into the
14 agreements described in section 51 of this Act and succeeds to and assumes all of the
15 obligations of the Board of Education with respect thereto and is bound by all of the covenants
16 of the Board of Education in connection therewith, which obligations and covenants are hereby
17 ratified and confirmed. All bonds, notes, or other evidences of indebtedness outstanding on the
18 effective date of this Act are unaffected by the transfer of functions from the Board of Education
19 to the state board. No contract with respect to such bonds may be deemed to have been impaired
20 by this Act.

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

625N0530

SENATE EDUCATION COMMITTEE ENGROSSED NO.

SB 101 - 02/01/2007

Introduced by: Senators Bartling, Albers, Gant, Jerstad, McCracken, McNenny, Nesselhuf, Olson (Ed), and Peterson (Jim) and Representatives Gillespie, Cutler, Dennert, DeVries, Dykstra, Elliott, Halverson, Nelson, Rounds, and Willadsen

1 FOR AN ACT ENTITLED, An Act to establish a governance policy for school boards.

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

3 Section 1. That § 13-8-10 be amended to read as follows:

4 13-8-10. The annual meeting shall be held on the second Monday of July unless otherwise
5 designated by the board at the prior regular meeting. Regular meetings shall be on the second
6 Monday of each month unless otherwise designated by the board at the annual meeting. At the
7 annual meeting the school board shall organize by the election of a president and a vice
8 president from its membership, and such officers shall serve until the next annual meeting. The
9 board shall designate the depository or depositories as provided in § 13-16-15, and the
10 custodians of all accounts; and designate the legal newspaper to be used for publishing all
11 official notices and proceedings. A majority of the members of the school board constitutes a
12 quorum for the purpose of conducting business. Any board action may be taken if it is approved
13 by the majority of the members voting.

14 Special meetings may be held upon call of the president or in ~~his~~ the president's absence by



1 the vice-president, or a majority of the board members. Notice of such meeting shall be given
2 by the business manager to the board members either orally or in writing in sufficient time to
3 permit their presence.

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

607N0419

SENATE HEALTH AND HUMAN SERVICES

COMMITTEE ENGROSSED NO. **SB 130** - 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 Dempster, Hansen (Tom), Heidepriem, Jerstad, Katus, and Olson (Ed) and Representatives Dykstra, Cutler, Jerke, Nygaard, and Rave

1 FOR AN ACT ENTITLED, An Act to permit the Department of Health to provide an electronic
2 report of marriages upon request.

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

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

6 Any electronic list of persons married in South Dakota may be released by the Department
7 of Health or the local registrar of deeds.



State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

445N0285

SENATE ENGROSSED NO. **SB 135** - 02/07/2007

Introduced by: Senators Bartling, Albers, Gant, Gray, Hanson (Gary), Koetzle, McCracken, Nesselhuf, Olson (Ed), and Turbak and Representatives Hargens, Cutler, Dykstra, Gillespie, Hanks, Hunt, Lucas, Moore, Noem, Pederson (Gordon), Pitts, Rave, Rounds, and Weems

1 FOR AN ACT ENTITLED, An Act to increase the minimum salary payable to county officials,
2 state's attorneys, and sheriffs.

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

4 Section 1. That § 7-7-9.1 be amended to read as follows:

5 7-7-9.1. The board of county commissioners shall establish, by resolution, the salary payable
6 to the county treasurer, county auditor, and county register of deeds. The salary payable may not
7 be less than the following schedule as based upon the most recent decennial federal census of
8 population for counties:

9	County Population	Salary Schedule
10	Below 10,000	\$25,689 <u>\$27,480</u>
11	10,000-14,999	26,234 <u>\$28,062</u>
12	15,000-24,999	27,305 <u>\$29,208</u>
13	25,000-69,999	29,983 <u>\$32,073</u>
14	70,000 and over	32,324 <u>\$34,577</u>

15 The board of county commissioners may not decrease the salary of the county treasurer,



1 county auditor, or county register of deeds during consecutive terms of office of the county
2 treasurer, county auditor, or county register of deeds.

3 Section 2. That § 7-7-9.1 be amended to read as follows:

4 7-7-9.1. The board of county commissioners shall establish, by resolution, the salary payable
5 to the county treasurer, county auditor, and county register of deeds. The salary payable may not
6 be less than the following schedule as based upon the most recent decennial federal census of
7 population for counties:

8	County Population	Salary Schedule
9	Below 10,000	\$25,689 <u>\$29,270</u>
10	10,000-14,999	26,234 <u>\$29,891</u>
11	15,000-24,999	27,305 <u>\$31,111</u>
12	25,000-69,999	29,983 <u>\$34,163</u>
13	70,000 and over	32,324 <u>\$36,830</u>

14 The board of county commissioners may not decrease the salary of the county treasurer,
15 county auditor, or county register of deeds during consecutive terms of office of the county
16 treasurer, county auditor, or county register of deeds.

17 Section 3. That § 7-7-10.1 be amended to read as follows:

18 7-7-10.1. The board of county commissioners shall establish, by resolution, the salary
19 payable for the combination of two or more of the following county elected positions. The salary
20 payable may not be less than the minimum salary provided by this section as based upon the
21 most recent decennial federal census of population for counties.

22 For the combination of two of the following: county treasurer, county auditor, or county
23 register of deeds, the minimum salary for counties shall be:

24	County Population	Salary Schedule
----	-------------------	-----------------

1	Below 10,000	\$27,000 <u>\$28,881</u>
2	10,000-14,999	28,500 <u>\$30,485</u>
3	15,000-24,999	30,000 <u>\$32,090</u>
4	25,000-69,999	33,000 <u>\$35,300</u>
5	70,000 and over	36,000 <u>\$38,510</u>

6 For the combination of all three of the following: county treasurer, county auditor, and
7 county register of deeds, the minimum salary for counties shall be:

8	County Population	Salary Schedule
9	Below 10,000	\$29,000 <u>\$31,020</u>
10	10,000-14,999	30,500 <u>\$32,625</u>
11	15,000-24,999	32,000 <u>\$34,230</u>
12	25,000-69,999	35,000 <u>\$37,440</u>
13	70,000 and over	39,000 <u>\$41,720</u>

14 Section 4. That § 7-7-10.1 be amended to read as follows:

15 7-7-10.1. The board of county commissioners shall establish, by resolution, the salary
16 payable for the combination of two or more of the following county elected positions. The salary
17 payable may not be less than the minimum salary provided by this section as based upon the
18 most recent decennial federal census of population for counties.

19 For the combination of two of the following: county treasurer, county auditor, or county
20 register of deeds, the minimum salary for counties shall be:

21	County Population	Salary Schedule
22	Below 10,000	\$27,000 <u>\$30,764</u>
23	10,000-14,999	28,500 <u>\$32,475</u>
24	15,000-24,999	30,000 <u>\$34,185</u>
25	25,000-69,999	33,000 <u>\$37,600</u>
26	70,000 and over	36,000 <u>\$41,018</u>

1 For the combination of all three of the following: county treasurer, county auditor, and
2 county register of deeds, the minimum salary for counties shall be:

3	County Population	Salary Schedule
4	Below 10,000	\$29,000 <u>\$33,045</u>
5	10,000-14,999	30,500 <u>\$34,752</u>
6	15,000-24,999	32,000 <u>\$36,460</u>
7	25,000-69,999	35,000 <u>\$39,880</u>
8	70,000 and over	39,000 <u>\$44,437</u>

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

10 7-7-12. The board of county commissioners shall establish, by resolution, the salary payable
11 to the state's attorney. The salary payable may not be less than the following schedule as based
12 upon the most recent decennial federal census of population for counties:

13	County Population	Salary Schedule
14	Below 5,000	\$26,250 <u>\$28,075</u>
15	5,000 - 9,999	\$28,600 <u>\$30,600</u>
16	10,000 - 20,000	\$33,800 <u>\$36,150</u>
17	20,000 - 49,999	\$36,250 <u>\$38,775</u>

18 In counties of over fifty thousand population where a full-time state's attorney is required
19 or in counties where the commissioners designate the position full-time the sum of ~~fifty-four~~
20 ~~thousand four hundred~~ fifty-eight thousand one hundred fifty dollars per year. In counties of less
21 than fifty thousand population the commissioners may designate the position full-time. The
22 decision by the commissioners shall be adopted prior to the first day of January in the year of
23 the election and may not be amended for that term of office. However, if no state's attorney is
24 elected to the office at any general election, the board of county commissioners may contract
25 for such legal services and negotiate the compensation therefor on terms and conditions

1 determined by the board of county commissioners. The board of county commissioners may not
2 decrease the salary of the state's attorney during consecutive terms of office of the state's
3 attorney.

4 Section 6. That § 7-7-12 be amended to read as follows:

5 7-7-12. The board of county commissioners shall establish, by resolution, the salary payable
6 to the state's attorney. The salary payable may not be less than the following schedule as based
7 upon the most recent decennial federal census of population for counties:

8 County Population	Salary Schedule
9 Below 5,000	\$ 26,250 <u>\$29,900</u>
10 5,000 - 9,999	\$ 28,600 <u>\$32,600</u>
11 10,000 - 20,000	\$ 33,800 <u>\$38,500</u>
12 20,000 - 49,999	\$ 36,250 <u>\$41,300</u>

13 In counties of over fifty thousand population where a full-time state's attorney is required
14 or in counties where the commissioners designate the position full-time the sum of ~~fifty-four~~
15 ~~thousand four hundred~~ sixty-one thousand nine hundred dollars per year. In counties of less than
16 fifty thousand population the commissioners may designate the position full-time. The decision
17 by the commissioners shall be adopted prior to the first day of January in the year of the election
18 and may not be amended for that term of office. However, if no state's attorney is elected to the
19 office at any general election, the board of county commissioners may contract for such legal
20 services and negotiate the compensation therefor on terms and conditions determined by the
21 board of county commissioners. The board of county commissioners may not decrease the salary
22 of the state's attorney during consecutive terms of office of the state's attorney.

23 Section 7. That § 7-12-15 be amended to read as follows:

24 7-12-15. The board of county commissioners shall establish, by resolution, the salary
25 payable to the sheriff. The salary payable may not be less than the following schedule based

1 upon the most recent decennial federal census of population of counties.

2	County Population	Salary Schedule
3	Below 10,000	\$31,299 <u>\$33,700</u>
4	10,000-14,999	\$33,917 <u>\$36,300</u>
5	15,000-24,999	\$35,017 <u>\$37,451</u>
6	25,000-69,999	\$39,217 <u>\$41,943</u>
7	70,000 and over	\$42,590 <u>\$45,550</u>

8 The board of county commissioners may not decrease the salary of the sheriff during
9 consecutive terms of office of the sheriff. Any sheriff having responsibility for managing a
10 full-time jail shall receive an additional ten percent added to the base salary listed in this section.

11 Section 8. That § 7-12-15 be amended to read as follows:

12 7-12-15. The board of county commissioners shall establish, by resolution, the salary
13 payable to the sheriff. The salary payable may not be less than the following schedule based
14 upon the most recent decennial federal census of population of counties.

15	County Population	Salary Schedule
16	Below 10,000	\$31,299 <u>\$35,700</u>
17	10,000-14,999	\$33,917 <u>\$38,700</u>
18	15,000-24,999	\$35,017 <u>\$39,900</u>
19	25,000-69,999	\$39,217 <u>\$44,700</u>
20	70,000 and over	\$42,590 <u>\$48,600</u>

21 The board of county commissioners may not decrease the salary of the sheriff during
22 consecutive terms of office of the sheriff. Any sheriff having responsibility for managing a
23 full-time jail shall receive an additional ten percent added to the base salary listed in this section.

24 Section 9. Sections 1, 3, 5, and 7 of this Act are effective on January 1, 2008. Sections 2,
25 4, 6, and 8 of this Act are effective on January 1, 2009.

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

960N0070

SENATE TAXATION COMMITTEE ENGROSSED NO.

SB 164 - 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: Senators Greenfield, Lintz, and Turbak and Representatives Howie, Faehn, Koistinen, Nelson, Noem, and Pederson (Gordon)

1 FOR AN ACT ENTITLED, An Act to permit certain taxing districts to revise the amount of
2 revenue payable from property taxes.

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

4 Section 1. That chapter 10-13 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Any taxing district that did not levy a property tax for general fund purposes in any year
7 since 1996 is exempt from the provisions of § 10-13-35 if the taxing district establishes the
8 amount of revenue payable from taxes on real property for general fund purposes pursuant to
9 section 2 of this Act. Each year thereafter such taxing district may increase the amount of
10 revenue payable from property taxes by applying the growth and the index factor pursuant to
11 § 10-13-35. Any excess levy imposed on property pursuant to § 10-13-36 terminates when a
12 general fund levy is imposed by such taxing district pursuant to section 2 of this Act.

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



1 The governing body of a taxing district may, by resolution, impose the levy provided in
2 section 1 of this Act with an affirmative two-thirds vote of the governing body on or before July
3 fifteenth. The decision of the governing body to impose the levy shall be published within ten
4 days of the decision as follows:

5 (1) Publication shall be made at least twice in the legal newspaper designated by the
6 governing body pursuant to law, with no fewer than five days between publication
7 dates, before the tax imposition takes effect;

8 (2) The announcement shall be at least three newspaper columns in width and four
9 inches in length or at least one-sixth of a page in size, whichever size is greater;

10 (3) The announcement shall be headed with the following statement in a typeface no less
11 than eighteen point type: "ATTENTION TAXPAYERS: NOTICE OF PROPERTY
12 TAX IMPOSED OF \$(fill in amount)." The remainder of the announcement shall
13 consist of a reproduction of the resolution including the amount that property taxes
14 will be imposed and a statement of the right to refer the decision of the board to a
15 vote of the people as provided in this section. The secretary of revenue and
16 regulation, in rules promulgated pursuant to chapter 1-26, shall prescribe a uniform
17 form to be used by the taxing district for notification of taxpayers as required by this
18 section.

19 However, the requirements of subdivisions (2) and (3) are waived if:

20 (a) The property tax imposed is for less than fifteen thousand dollars; or

21 (b) A copy of the resolution is mailed to every property taxpayer in the taxing
22 district, by first class mail or bulk mail, within twenty days of the decision;
23 and

24 (c) A copy of the resolution is printed in each legal newspaper in the taxing

1 district's boundaries.

2 For the purposes of subsections (a),(b),and(c), the first publication is not deemed to have
3 occurred until three days after the mailing is sent or the resolution is delivered to the legal
4 newspaper.

5 The governing body's decision may be referred to a vote of the people upon a resolution of
6 the governing body of the taxing district or by a petition signed by at least five percent of the
7 registered voters in the taxing district and filed with the respective governing body within
8 twenty days of the first publication of the decision. The referendum election shall be held on or
9 before October first preceding the year the taxes are payable.

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

490N0413 **HOUSE COMMERCE COMMITTEE ENGROSSED NO.**
SB 165 - 02/23/2007

Introduced by: Senators Gant, Abdallah, Dempster, Gray, Hauge, Koetzle, and McCracken
and Representatives Krebs, Ahlers, Boomgarden, Olson (Russell), Rave,
Wick, and Willadsen

1 FOR AN ACT ENTITLED, An Act to repeal and reestablish provisions to regulate mortgage
2 lenders and brokers.

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

4 Section 1. Terms used in this Act mean:

5 (1) "Director," the director of the Division of Banking of the Department of Revenue and
6 Regulation;

7 (2) "Division," the Division of Banking of the Department of Revenue and Regulation;

8 (3) "Licensee," the person holding a license provided by this Act;

9 (4) "Mortgage lender," any person who, for valuable consideration, originates, sells, or
10 services mortgages, or holds himself, herself, or itself out as a person who, for
11 valuable consideration, originates, sells, or services mortgages, other than those
12 exempt pursuant to section 10 of this Act;

13 (5) "Mortgage broker," any person who, for compensation or gain, acts as an
14 intermediary between borrower and lender to assist a person in obtaining or applying



1 to obtain a mortgage loan or holds himself, herself, or itself out as being able to assist
2 a person in obtaining or applying to obtain a mortgage loan;

3 (6) "Mortgage brokering activities," for compensation, either directly or indirectly,
4 assisting or offering to assist in the preparation of an application for a mortgage loan
5 on behalf of a borrower, or negotiating or offering to negotiate the terms or
6 conditions of a mortgage loan with any person making mortgage loans;

7 (7) "Mortgage loan originator," any person acting under the supervision of a licensee and
8 who, for compensation or gain, takes or receives a mortgage application, assembles
9 information, and prepares paperwork and documentation necessary for obtaining a
10 mortgage loan or arranges for a conditional mortgage loan commitment between a
11 borrower and a lender, or arranges for a loan commitment from a lender. The term,
12 mortgage loan originator, does not include an employee of a licensee whose job
13 responsibilities are limited to clerical tasks that do not include processing of
14 mortgage loans;

15 (8) "Mortgage lending activities," for compensation, either directly or indirectly,
16 accepting or offering to accept applications for making mortgage loans;

17 (9) "Regional revolving loan fund," any regional revolving loan fund with a service area
18 of at least five South Dakota counties, a designated staff for loan processing and
19 servicing, a loan portfolio of at least one million dollars, and which is governed by
20 a board of directors that meets at least quarterly.

21 Section 2. No person may act as a mortgage lender, mortgage broker, or mortgage loan
22 originator in this state or use the title, mortgage broker, mortgage lender, or mortgage loan
23 originator without first obtaining a license, or in the case of originators a registration, and
24 undergoing a criminal background check from the division.

1 Section 3. Any applicant for licensure or registration shall submit to the director an
2 application on forms prescribed by the division. The forms shall include, at a minimum, all
3 addresses at which business is to be conducted, the names and titles of each director and
4 principal officer of the business, and a description of the business activities and experience of
5 the applicant.

6 Section 4. Each applicant for licensure and registration under this Act shall submit to a state
7 and federal criminal background investigation by means of fingerprint checks by the Division
8 of Criminal Investigation and the Federal Bureau of Investigation. Upon application, the
9 Division of Banking shall submit completed fingerprint cards to the Division of Criminal
10 Investigation. Upon completion of the criminal background check, the Division of Criminal
11 Investigation shall forward to the Division of Banking all information obtained as a result of the
12 criminal background check. The Division of Banking may require a state and federal criminal
13 background check for any licensee who is the subject of a disciplinary investigation by the
14 division. Failure to submit or cooperate with the criminal background investigation is grounds
15 for denial of an application or may result in revocation of a license. The applicant shall pay for
16 any fees charged for the cost of fingerprinting or the criminal background investigation. Any
17 applicant who has previously completed a background check in another jurisdiction in
18 anticipation of receiving a license or registration in that jurisdiction may have the results of such
19 a background check forwarded to the division in satisfaction of this requirement.

20 Section 5. The applicant for an initial license shall submit a fee in the amount of not more
21 than five hundred dollars for a mortgage broker license, and not more than one thousand dollars
22 for a mortgage lender license. The applicant for initial registration shall submit a fee in the
23 amount of not more than two hundred fifty dollars for mortgage loan originator registration. The
24 director shall establish the fees by rules promulgated pursuant to chapter 1-26.

1 Section 6. No license or registration granted pursuant to this Act is assignable.

2 Section 7. Any license or registration granted under this Act expires on the following
3 December thirty-first after its issuance.

4 Section 8. Any application for renewal of a license or registration under this Act must be
5 postmarked to the director by December first and shall be accompanied by a fee to be
6 established by the director by rules promulgated pursuant to chapter 1-26. Any license granted
7 by the division prior to the implementation of this Act is valid until December 31, 2007. The
8 fee to transact business as a mortgage broker may not exceed five hundred dollars. The fee to
9 transact business as a mortgage lender may not exceed one thousand dollars. The fee to register
10 as a mortgage loan originator may not exceed two hundred fifty dollars. Any licensee or
11 registrant that files for renewal after December first and before January first of the next calendar
12 year shall pay a late fee in addition to the renewal fee. The late fee, not to exceed twenty-five
13 percent of the renewal fee, shall be established by the director by rules promulgated pursuant
14 to chapter 1-26. After January first no license may be issued unless an application is filed
15 pursuant to sections 2 to 5, inclusive, of this Act.

16 Section 9. The State of South Dakota, any political subdivision of the state, and any quasi-
17 governmental organization created by an executive order of the State of South Dakota and any
18 subsidiary of such organization; any nonprofit corporation formed pursuant to chapter 47-22;
19 any nonprofit United States Treasury Community Development Financial Institution, Small
20 Business Administration Certified Development Company, or Regional Revolving Loan Fund;
21 or any commercial club, chamber of commerce, or industrial development corporation formed
22 pursuant to § 9-12-11 or 9-27-37 is subject to this Act but exempt from initial license fees,
23 renewal fees, and surety bond requirements under this Act.

24 Section 10. The following entities and their employees and exclusive agents are exempt

1 from the provisions of this Act:

- 2 (1) Any state bank and its subsidiary;
- 3 (2) Any national bank and its subsidiary;
- 4 (3) Any bank holding company and its subsidiary;
- 5 (4) Any other federally insured financial institution, and its holding company and
6 subsidiary;
- 7 (5) Any South Dakota chartered trust company;
- 8 (6) Any real estate broker licensed pursuant to chapter 36-21A; and
- 9 (7) Any insurance company or any person acting as an intermediary thereto, if
10 participating in mortgage lending activities solely with its own assets and for its own
11 portfolio.

12 Section 11. Any person, including a mortgage loan originator, shall complete the equivalent
13 of two years of service under the supervision and direction of a licensed mortgage broker or
14 mortgage lender, or another jurisdiction's equivalent thereof, before that person is eligible to
15 apply for a mortgage broker's or mortgage lender's license. No mortgage broker, mortgage
16 lender, or mortgage loan originator is eligible for a license without such training and experience.
17 The director may promulgate rules pursuant to chapter 1-26 with regard to such training and
18 experience. Any person licensed as a mortgage broker or mortgage lender with the director prior
19 to July 1, 2007, is exempt from this requirement.

20 Section 12. Any mortgage broker or mortgage lender licensed to practice in the State of
21 South Dakota may use the services of a mortgage loan originator that operates under direct
22 control and supervision of the mortgage broker or mortgage lender. The mortgage loan
23 originator shall be registered by the director and while registered and employed by a mortgage
24 broker or mortgage lender may not be deemed to be operating as a mortgage broker or mortgage

1 lender.

2 Section 13. Any applicant for a license shall submit with the application a bond in the
3 amount of twenty-five thousand dollars. The bond shall be issued by a surety company qualified
4 to do business as a surety in this state. The bond shall be in favor of this state for the use of this
5 state and any person who has a cause of action under this Act against the licensee. The bond
6 shall be conditioned on:

7 (1) The licensee's faithful performance under this Act and any rules adopted pursuant to
8 this Act; and

9 (2) The payment of any amounts that are due to the state or another person during the
10 time the bond is in force.

11 The bond may be continuous, and regardless of how long the bond remains in force, the
12 aggregate liability of a surety to all persons damaged by a licensee's violation of the provisions
13 of this Act may not exceed the amount of the bond. The bond may be cancelled by the surety
14 upon thirty days notice to the licensee and the director, and the surety's liability on the bond
15 shall also terminate upon the effective date of any suspension or revocation of the license.

16 Section 14. Any person, who without first obtaining a license or registration under this Act,
17 engages in the business or occupation of, or advertises or holds the person out as, or claims to
18 be, or temporarily acts as, a mortgage broker, mortgage lender, or mortgage loan originator in
19 this state is guilty of a Class 2 misdemeanor and may be held responsible for all costs of
20 prosecution, including restitution.

21 Section 15. Any licensee or registrant is subject to examination and investigation by the
22 director. The director shall promulgate rules pursuant to chapter 1- 26 that specify the process
23 by which examinations and investigations will be performed.

24 Section 16. The director may suspend, not to exceed six months, or revoke a license or

1 registration if the director finds:

2 (1) Any fact or condition exists that, if it had existed at the time the licensee or registrant
3 applied for its license or registration, would have been grounds for denying the
4 application;

5 (2) The licensee or registrant violated any provisions of this Act or any rule or order
6 promulgated by the director;

7 (3) The licensee or registrant refuses to permit the director to make any examination
8 authorized by this Act or rule promulgated pursuant to this Act, or any federal statute,
9 rule, or regulation pertaining to mortgage lending;

10 (4) The licensee or registrant willfully fails to make any report required of this Act;

11 (5) The competence, experience, character, or general fitness of the licensee or registrant
12 indicates that it is not in the public interest to permit the licensee or registrant to
13 continue to conduct business;

14 (6) The bond of the licensee has been revoked or cancelled by the surety;

15 (7) The licensee or any partner, officer, director, manager, or employee of the licensee
16 has been convicted of a felony or a misdemeanor involving any aspect of the
17 financial services business;

18 (8) The licensee or any partner, officer, director, manager, or employee of the licensee
19 has had a license substantially equivalent to a license under this Act, and issued by
20 another state, denied, revoked or suspended under the laws of that state;

21 (9) The licensee or registrant has filed an application for a license or registration which
22 as of the date the license or registration was issued, or as of the date of an order
23 denying, suspending, or revoking a license or registration, was incomplete in any
24 material respect or contained any statement that was, in light of the circumstances

1 under which it was made, false or misleading with respect to any material fact.

2 The director may revoke a license or registration for good cause pursuant to chapter 1-26.

3 If the licensee is the holder of more than one license, the director may revoke any or all of the
4 licenses.

5 Section 17. The director may, in the director's discretion, reinstate a license or registration,
6 terminate a suspension, or grant a new license or registration to any person whose license or
7 registration has been revoked or suspended if no fact or condition then exists which would
8 justify the director in refusing to grant a license or registration.

9 Section 18. Any licensee whose license or registration is subject to suspension or revocation
10 by the director, may contest such suspension or revocation in accordance with the provisions
11 of chapter 1-26.

12 Section 19. Any licensee under this Act, in addition to the license and other fees provided
13 by this Act, shall pay the annual tax provided in chapter 10-43, upon the net income of the
14 licensee measured by the net income assignable to the licensee's business in South Dakota. The
15 State of South Dakota, any political subdivision of the state, and any quasi-governmental
16 organization created by an executive order of the State of South Dakota and any subsidiary of
17 such organization; any nonprofit United States Treasury Community Development Financial
18 Institution, Small Business Administration Certified Development Company, or Regional
19 Revolving Loan Fund; or any commercial club, chamber of commerce, or industrial
20 development corporation formed pursuant to § 9-12-11 or 9-27-37 is exempt from the payment
21 of this tax.

22 Section 20. The director may promulgate rules pursuant to chapter 1-26 for the continuing
23 education of mortgage brokers, mortgage lenders, and mortgage loan originators, and for the
24 management and administration of licenses and registrations issued pursuant to this Act.

1 Section 21. That §§ 54-14-1 to 54-14-11, inclusive, be repealed.

2 Section 22. Fees collected pursuant to this Act shall be deposited with the state treasurer in
3 the banking special revenue fund created in § 51A-2-30. Expenditures from the fund shall be
4 appropriated through the normal budget process.

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

942N0655

SENATE TAXATION COMMITTEE ENGROSSED NO.

SB 182 - 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 Peterson (Jim), Duenwald, Garnos, Hanson (Gary), and Heidepriem
and Representatives Rausch, Dykstra, Hargens, Jerke, Nelson, Pitts,
Sigdestad, and Street

1 FOR AN ACT ENTITLED, An Act to revise and establish certain provisions regarding the
2 setting of rates for public utilities.

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

4 Section 1. That § 49-34A-8 be amended to read as follows:

5 49-34A-8. The ~~Public Utilities Commission~~ commission, in the exercise of its power under
6 this chapter to determine just and reasonable rates for public utilities, shall give due
7 consideration to the public need for adequate, efficient, economical, and reasonable service and
8 to the need of the public utility for revenues sufficient to enable it to meet its total current cost
9 of furnishing such service, including taxes and interest, and including adequate provision for
10 depreciation of its utility property used and necessary in rendering service to the public, and to
11 earn a fair and reasonable return upon the value of its property.

12 Section 2. That chapter 49-34A be amended by adding thereto a NEW SECTION to read
13 as follows:

14 The burden is on the public utility to establish that the underlying costs of any rates, charges,



- 1 or automatic adjustment charges filed under this chapter are prudent, efficient, and economical
- 2 and are reasonable and necessary to provide service to the public utility's customers in this state.

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

708N0475

SENATE ENGROSSED NO. **SB 183** - 02/08/2007

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

Introduced by: Senators Peterson (Jim), Bartling, and Hanson (Gary) and Representatives Pitts, DeVries, Hargens, Rausch, Sigdestad, Street, and Tidemann

1 FOR AN ACT ENTITLED, An Act to exempt the production of certain plants and sod from
2 sales and use taxes.

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

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

6 The production of any sod and any nursery, greenhouse, food-bearing, and ornamental plant
7 is considered an agricultural purpose. If the sod and plants are raised with the intent to be
8 ultimately sold at retail, the following products are hereby specifically exempted from the tax
9 imposed by chapter 10-45, if the products are directly used in the production of the sod or
10 plants:

- 11 (1) Any pesticide as defined in § 38-20A-1 and any product or substance used in
12 conjunction with the pesticide as enumerated in § 10-45-16.1;
- 13 (2) Commercial fertilizer as defined in subdivision 38-19-1(5); and
- 14 (3) Fuel for agricultural purposes as defined in § 10-45-19.

15 No horticultural enterprise may receive the exemption pursuant to this section unless the



1 horticultural enterprise is a resident nurseryman, as defined in subdivision 38-24B-1(11),
2 licensed by the South Dakota Department of Agriculture; a permanent standing greenhouse
3 operating for more than three months per year, in which the main enterprise is the raising of
4 plants from a seed, seedling, plug, or cutting to finish as a saleable product; a grower of sod as
5 defined in subdivision 38-24B-1(14); or a commercial grower of fruits and vegetables if the
6 products are ultimately sold at retail for human consumption.

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

9 The production of any sod and any nursery, greenhouse, food-bearing, and ornamental plant
10 is considered an agricultural purpose. If the sod and plants are raised with the intent to be
11 ultimately sold at retail, the following products are hereby specifically exempted from the tax
12 imposed by chapter 10-46, if the products are directly used in the production of the sod or
13 plants:

- 14 (1) Any pesticide as defined in § 38-20A-1 and any product or substance used in
15 conjunction with the pesticide as enumerated in § 10-45-16.1;
- 16 (2) Commercial fertilizer as defined in subdivision 38-19-1(5); and
- 17 (3) Fuel for agricultural purposes as defined in § 10-45-19.

18 No horticultural enterprise may receive the exemption pursuant to this section unless the
19 horticultural enterprise is a resident nurseryman, as defined in subdivision 38-24B-1(11),
20 licensed by the South Dakota Department of Agriculture; a permanent standing greenhouse
21 operating for more than three months per year, in which the main enterprise is the raising of
22 plants from a seed, seedling, plug, or cutting to finish as a saleable product; a grower of sod as
23 defined in subdivision 38-24B-1(14); or a commercial grower of fruits and vegetables if the
24 products are ultimately sold at retail for human consumption.

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

400N0549 **HOUSE APPROPRIATIONS COMMITTEE ENGROSSED**
NO. SB 185 - 02/23/2007

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

1 FOR AN ACT ENTITLED, An Act to make an appropriation to fund tax refunds for elderly and
2 disabled persons for property tax and sales tax refunds.

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 eight hundred
5 thousand dollars (\$800,000), or so much thereof as may be necessary, to the Department of
6 Revenue and Regulation to provide refunds for real property tax and sales tax to elderly and
7 disabled persons pursuant to chapters 10-18A and 10-45A. An amount not to exceed ten
8 thousand dollars in fiscal year 2008 may be used for the administrative costs of this Act.

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



State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

752N0708

SENATE HEALTH AND HUMAN SERVICES COMMITTEE ENGROSSED NO. **SB 193** - 02/02/2007

Introduced by: Senators McCracken, Albers, Gant, Gray, Hansen (Tom), Nesselhuf, and Olson (Ed) and Representatives Cutler, Boomgarden, Faehn, Jerke, and Miles

1 FOR AN ACT ENTITLED, An Act to prohibit the abuse of certain elderly persons and to revise
2 certain provisions regarding the abuse of disabled adults.

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

4 Section 1. That § 22-46-1 be amended to read as follows:

5 22-46-1. Terms used in this chapter mean:

6 (1) "Abuse," physical harm, bodily injury, or attempt to cause physical harm or injury,
7 or the infliction of fear of imminent physical harm or bodily injury on an elder or a
8 disabled adult;

9 (2) "Disabled adult," a person eighteen years of age or older who suffers from a
10 condition of mental retardation, infirmities of aging as manifested by organic brain
11 damage, advanced age, or other physical dysfunctioning to the extent that the person
12 is unable to protect himself or herself or provide for his or her own care;

13 (3) "Elder," a person sixty-five years of age or older;

14 (4) "Exploitation," the wrongful taking or exercising of control over property of an elder
15 or a disabled adult with intent to defraud ~~that the elder or~~ disabled adult; and



1 ~~(4)~~(5) "Neglect," harm to an elder's or a disabled adult's health or welfare, without
2 reasonable medical justification, caused by the conduct of a person responsible for
3 the elder's or disabled adult's health or welfare, within the means available for the
4 elder or disabled adult, including the failure to provide adequate food, clothing,
5 shelter, or medical care.

6 Section 2. That chapter 22-46 be amended by adding thereto a NEW SECTION to read as
7 follows:

8 For the purposes of this chapter, the term, neglect, does not include a decision that is made
9 to not seek medical care for an elder or disabled adult upon the expressed desire of the elder or
10 disabled adult; a decision to not seek medical care for an elder or disabled adult based upon a
11 previously executed declaration, do-not-resuscitate order, or a power of attorney for health care;
12 a decision to not seek medical care for an elder or disabled adult if otherwise authorized by law;
13 or the failure to provide goods and services outside the means available for the elder or disabled
14 adult.

15 Section 3. That § 22-46-2 be amended to read as follows:

16 22-46-2. Any person who abuses or neglects an elder or a disabled adult in a manner which
17 does not constitute aggravated assault is guilty of a Class 6 felony.

18 Section 4. That § 22-46-3 be amended to read as follows:

19 22-46-3. Any person who, having assumed the duty by written contract, by receipt of
20 payment for care, or by order of a court to provide for the support of an elder or a disabled adult,
21 and having been entrusted with the property of that elder or disabled adult, with intent to
22 defraud, appropriates such property to a use or purpose not in the due and lawful execution of
23 that person's trust, is guilty of theft by exploitation. Theft by exploitation is punishable as theft
24 pursuant to chapter 22-30A.

1 Section 5. That chapter 22-46 be amended by adding thereto a NEW SECTION to read as
2 follows:

3 A report of abuse, neglect, or exploitation under this chapter may be made orally or in
4 writing to the state's attorney of the county in which the elder or disabled adult resides or is
5 present, to the Department of Social Services, or to the law enforcement officer. The state's
6 attorney or law enforcement officer, upon receiving a report, shall immediately notify the
7 Department of Social Services.

8 Section 6. That § 34-12-51 be amended to read as follows:

9 34-12-51. Any institution regulated pursuant to chapter 34-12 and any employee, agent, or
10 member of a medical or dental staff thereof who, in good faith, makes a report of abuse,
11 exploitation, or neglect of a any elder or disabled adult, is immune from any liability, civil or
12 criminal, that might otherwise be incurred or imposed, and has the same immunity with respect
13 to participation in any judicial proceeding resulting from ~~such~~ the report. This immunity ~~also~~
14 extends in a like manner to any public official involved in the investigation of abuse,
15 exploitation, or neglect of any elder or disabled adult, or to any person or institution ~~provided~~
16 ~~herein~~ who in good faith cooperates with ~~such~~ any public officials in an investigation. The
17 provisions of this section do not extend to any person alleged to have committed any act of
18 abuse or neglect of a any elder or disabled adult or to any person who has aided and abetted any
19 such act.

20 Section 7. That chapter 22-46 be amended by adding thereto a NEW SECTION to read as
21 follows:

22 Any person who, in good faith, makes a report of abuse, neglect, or exploitation of any elder
23 or disabled adult, is immune from any civil or criminal liability that might otherwise be incurred
24 or imposed, and has the same immunity with respect to participation in any judicial proceeding

1 resulting from the report. This immunity extends in a like manner to any public official involved
2 in the investigation of abuse, neglect, or exploitation of any elder or disabled adult, or to any
3 person or institution who in good faith cooperates with any public official in an investigation.
4 The provisions of this section do not extend to any person alleged to have committed any act
5 of abuse or neglect of any elder or disabled adult or to any person who has aided and abetted any
6 such act.

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

823N0714

HOUSE HEALTH AND HUMAN SERVICES COMMITTEE ENGROSSED NO. **SB 197** - 02/26/2007

Introduced by: Senators Dempster, Abdallah, Hanson (Gary), Knudson, and Maher and
Representatives Lust, Cutler, Gillespie, and Rave

1 FOR AN ACT ENTITLED, An Act to adopt the Revised Uniform Anatomical Gift Act.

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

3 Section 1. This Act may be cited as the Revised Uniform Anatomical Gift Act.

4 Section 2. In this Act:

5 (1) "Adult" means an individual who is at least eighteen years of age.

6 (2) "Agent" means an individual:

7 (A) Authorized to make health care decisions on the principal's behalf by a power
8 of attorney for health care; or

9 (B) Expressly authorized to make an anatomical gift on the principal's behalf by
10 any other record signed by the principal.

11 (3) "Anatomical gift" means a donation of all or part of a human body to take effect after
12 the donor's death for the purpose of transplantation, therapy, research, or education.

13 (4) "Decedent" means a deceased individual whose body or part is or may be the source
14 of an anatomical gift. The term does not include a blastocyst, embryo, or fetus that
15 is the subject of an induced abortion.



- 1 (5) "Disinterested witness" means a witness other than the spouse, child, parent, sibling,
2 grandchild, grandparent, or guardian of the individual who makes, amends, revokes,
3 or refuses to make an anatomical gift, or another adult who exhibited special care and
4 concern for the individual. The term does not include a person to which an
5 anatomical gift could pass under section 11 of this Act.
- 6 (6) "Document of gift" means a donor card or other record used to make an anatomical
7 gift. The term includes a statement or symbol on a driver's license, identification
8 card, or donor registry.
- 9 (7) "Donor" means an individual whose body or part is the subject of an anatomical gift.
- 10 (8) "Donor registry" means a database that contains records of anatomical gifts and
11 amendments to or revocations of anatomical gifts.
- 12 (9) "Driver's license" means a license or permit issued by the Department of Public
13 Safety to operate a vehicle, whether or not conditions are attached to the license or
14 permit.
- 15 (10) "Eye bank" means a person that is licensed, accredited, or regulated under federal or
16 state law to engage in the recovery, screening, testing, processing, storage, or
17 distribution of human eyes or portions of human eyes.
- 18 (11) "Guardian" means a person appointed by a court to make decisions regarding the
19 support, care, education, health, or welfare of an individual. The term does not
20 include a guardian ad litem.
- 21 (12) "Hospital" means a facility licensed as a hospital under the law of any state or a
22 facility operated as a hospital by the United States, a state, or a subdivision of a state.
- 23 (13) "Identification card" means an identification card issued by the Department of Public
24 Safety.

- 1 (14) "Know" means to have actual knowledge.
- 2 (15) "Minor" means an individual who is under eighteen years of age.
- 3 (16) "Organ procurement organization" means a person designated by the Secretary of the
4 United States Department of Health and Human Services as an organ procurement
5 organization.
- 6 (17) "Parent" means a parent whose parental rights have not been terminated.
- 7 (18) "Part" means an organ, an eye, or tissue of a human being. The term does not include
8 the whole body.
- 9 (19) "Person" means an individual, corporation, business trust, estate, trust, partnership,
10 limited liability company, association, joint venture, public corporation, government
11 or governmental subdivision, agency, or instrumentality, or any other legal or
12 commercial entity.
- 13 (20) "Physician" means an individual authorized to practice medicine or osteopathy under
14 the law of any state.
- 15 (21) "Procurement organization" means an eye bank, organ procurement organization, or
16 tissue bank.
- 17 (22) "Prospective donor" means an individual who is dead or near death and has been
18 determined by a procurement organization to have a part that could be medically
19 suitable for transplantation, therapy, research, or education. The term does not
20 include an individual who has made a refusal.
- 21 (23) "Reasonably available" means able to be contacted by a procurement organization
22 without undue effort and willing and able to act in a timely manner consistent with
23 existing medical criteria necessary for the making of an anatomical gift.
- 24 (24) "Recipient" means an individual into whose body a decedent's part has been or is

1 intended to be transplanted.

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

4 (26) "Refusal" means a record created under section 7 of this Act that expressly states an
5 intent to bar other persons from making an anatomical gift of an individual's body or
6 part.

7 (27) "Sign" means, with the present intent to authenticate or adopt a record:

8 (A) To execute or adopt a tangible symbol; or

9 (B) To attach to or logically associate with the record an electronic symbol, sound,
10 or process.

11 (28) "State" means a state of the United States, the District of Columbia, Puerto Rico, the
12 United States Virgin Islands, or any territory or insular possession subject to the
13 jurisdiction of the United States.

14 (29) "Technician" means an individual determined to be qualified to remove or process
15 parts by an appropriate organization that is licensed, accredited, or regulated under
16 federal or state law. The term includes an enucleator.

17 (30) "Tissue" means a portion of the human body other than an organ or an eye. The term
18 does not include blood unless the blood is donated for the purpose of research or
19 education.

20 (31) "Tissue bank" means a person that is licensed, accredited, or regulated under federal
21 or state law to engage in the recovery, screening, testing, processing, storage, or
22 distribution of tissue.

23 (32) "Transplant hospital" means a hospital that furnishes organ transplants and other
24 medical and surgical specialty services required for the care of transplant patients.

1 Section 3. This Act applies to an anatomical gift or amendment to, revocation of, or refusal
2 to make an anatomical gift, whenever made.

3 Section 4. Subject to section 8 of this Act, an anatomical gift of a donor's body or part may
4 be made during the life of the donor for the purpose of transplantation, therapy, research, or
5 education in the manner provided in section 5 of this Act by:

- 6 (1) The donor, if the donor is an adult or if the donor is a minor and is:
 - 7 (A) Emancipated; or
 - 8 (B) Authorized under state law to apply for a driver's license because the donor is
9 at least fourteen years of age, provided, that if the minor is unemancipated, a
10 parent or guardian has consented that the organ donor indicator be placed on
11 the minor's driver license or nondriver identification card;
- 12 (2) An agent of the donor, unless the power of attorney for health care or other record
13 prohibits the agent from making an anatomical gift;
- 14 (3) A parent of the donor, if the donor is an unemancipated minor; or
- 15 (4) The donor's guardian.

16 Section 5. (a) A donor may make an anatomical gift:

- 17 (1) By authorizing a statement or symbol indicating that the donor has made an
18 anatomical gift to be imprinted on the donor's driver's license or identification card;
- 19 (2) In a will;
- 20 (3) During a terminal illness or injury of the donor, by any form of communication
21 addressed to at least two adults, at least one of whom is a disinterested witness; or
- 22 (4) As provided in subsection (b).

23 (b) A donor or other person authorized to make an anatomical gift under section 4 of this
24 Act may make a gift by a donor card or other record signed by the donor or other person making

1 the gift or by authorizing that a statement or symbol indicating that the donor has made an
2 anatomical gift be included on a donor registry. If the donor or other person is physically unable
3 to sign a record, the record may be signed by another individual at the direction of the donor or
4 other person and must:

5 (1) Be witnessed by at least two adults, at least one of whom is a disinterested witness,
6 who have signed at the request of the donor or the other person; and

7 (2) State that it has been signed and witnessed as provided in paragraph (1).

8 (c) Revocation, suspension, expiration, or cancellation of a driver's license or identification
9 card upon which an anatomical gift is indicated does not invalidate the gift.

10 (d) An anatomical gift made by will takes effect upon the donor's death whether or not the
11 will is probated. Invalidation of the will after the donor's death does not invalidate the gift.

12 Section 6. (a) Subject to section 8 of this Act, a donor or other person authorized to make
13 an anatomical gift under section 4 of this Act may amend or revoke an anatomical gift by:

14 (1) A record signed by:

15 (A) The donor;

16 (B) The other person; or

17 (C) Subject to subsection (b), another individual acting at the direction of the
18 donor or the other person if the donor or other person is physically unable to
19 sign; or

20 (2) A later-executed document of gift that amends or revokes a previous anatomical gift
21 or portion of an anatomical gift, either expressly or by inconsistency.

22 (b) A record signed pursuant to subsection (a)(1)(C) must:

23 (1) Be witnessed by at least two adults, at least one of whom is a disinterested witness,

1 who have signed at the request of the donor or the other person; and

2 (2) State that it has been signed and witnessed as provided in paragraph (1).

3 (c) Subject to section 8 of this Act, a donor or other person authorized to make an
4 anatomical gift under section 4 of this Act may revoke an anatomical gift by the destruction or
5 cancellation of the document of gift, or the portion of the document of gift used to make the gift,
6 with the intent to revoke the gift.

7 (d) A donor may amend or revoke an anatomical gift that was not made in a will by any form
8 of communication during a terminal illness or injury addressed to at least two adults, at least one
9 of whom is a disinterested witness.

10 (e) A donor who makes an anatomical gift in a will may amend or revoke the gift in the
11 manner provided for amendment or revocation of wills or as provided in subsection (a).

12 Section 7. (a) An individual may refuse to make an anatomical gift of the individual's body
13 or part by:

14 (1) A record signed by:

15 (A) The individual; or

16 (B) Subject to subsection (b), another individual acting at the direction of the
17 individual if the individual is physically unable to sign;

18 (2) The individual's will, whether or not the will is admitted to probate or invalidated
19 after the individual's death; or

20 (3) Any form of communication made by the individual during the individual's terminal
21 illness or injury addressed to at least two adults, at least one of whom is a
22 disinterested witness.

1 (b) A record signed pursuant to subsection (a)(1)(B) must:

2 (1) Be witnessed by at least two adults, at least one of whom is a disinterested witness,
3 who have signed at the request of the individual; and

4 (2) State that it has been signed and witnessed as provided in paragraph (1).

5 (c) An individual who has made a refusal may amend or revoke the refusal:

6 (1) In the manner provided in subsection (a) for making a refusal;

7 (2) By subsequently making an anatomical gift pursuant to section 5 of this Act that is
8 inconsistent with the refusal; or

9 (3) By destroying or canceling the record evidencing the refusal, or the portion of the
10 record used to make the refusal, with the intent to revoke the refusal.

11 (d) Except as otherwise provided in section 8(h) of this Act, in the absence of an express,
12 contrary indication by the individual set forth in the refusal, an individual's unrevoked refusal
13 to make an anatomical gift of the individual's body or part bars all other persons from making
14 an anatomical gift of the individual's body or part.

15 Section 8. (a) Except as otherwise provided in subsection (g) and subject to subsection (f),
16 in the absence of an express, contrary indication by the donor, a person other than the donor is
17 barred from making, amending, or revoking an anatomical gift of a donor's body or part if the
18 donor made an anatomical gift of the donor's body or part under section 5 of this Act or an
19 amendment to an anatomical gift of the donor's body or part under section 6 of this Act.

20 (b) A donor's revocation of an anatomical gift of the donor's body or part under section 6 of
21 this Act is not a refusal and does not bar another person specified in section 4 or 9 of this Act
22 from making an anatomical gift of the donor's body or part under section 5 or 10 of this Act.

1 (c) If a person other than the donor makes an unrevoked anatomical gift of the donor's body
2 or part under section 5 of this Act or an amendment to an anatomical gift of the donor's body
3 or part under section 6 of this Act, another person may not make, amend, or revoke the gift of
4 the donor's body or part under section 10 of this Act.

5 (d) A revocation of an anatomical gift of a donor's body or part under section 6 of this Act
6 by a person other than the donor does not bar another person from making an anatomical gift
7 of the body or part under section 5 or 10 of this Act.

8 (e) In the absence of an express, contrary indication by the donor or other person authorized
9 to make an anatomical gift under section 4 of this Act, an anatomical gift of a part is neither a
10 refusal to give another part nor a limitation on the making of an anatomical gift of another part
11 at a later time by the donor or another person.

12 (f) In the absence of an express, contrary indication by the donor or other person authorized
13 to make an anatomical gift under section 4 of this Act, an anatomical gift of a part for one or
14 more of the purposes set forth in section 4 of this Act is not a limitation on the making of an
15 anatomical gift of the part for any of the other purposes by the donor or any other person under
16 section 5 or 10 of this Act.

17 (g) If a donor who is an unemancipated minor dies, a parent of the donor who is reasonably
18 available may revoke or amend an anatomical gift of the donor's body or part.

19 (h) If an unemancipated minor who signed a refusal dies, a parent of the minor who is
20 reasonably available may revoke the minor's refusal.

21 Section 9. (a) Subject to subsections (b) and (c) and unless barred by section 7 or 8 of this
22 Act, an anatomical gift of a decedent's body or part for purpose of transplantation, therapy,
23 research, or education may be made by any member of the following classes of persons who is

1 reasonably available, in the order of priority listed:

2 (1) An agent of the decedent at the time of death who could have made an anatomical
3 gift under section 4(2) of this Act immediately before the decedent's death;

4 (2) The spouse of the decedent;

5 (3) Adult children of the decedent;

6 (4) Parents of the decedent;

7 (5) Adult siblings of the decedent;

8 (6) Adult grandchildren of the decedent;

9 (7) Grandparents of the decedent;

10 (8) An adult who exhibited special care and concern for the decedent;

11 (9) The persons who were acting as the guardians of the person of the decedent at the
12 time of death; and

13 (10) Any other person having the authority to dispose of the decedent's body.

14 (b) If there is more than one member of a class listed in subsection (a)(1), (3), (4), (5), (6),
15 (7), or (9) entitled to make an anatomical gift, an anatomical gift may be made by a member of
16 the class unless that member or a person to which the gift may pass under section 11 of this Act
17 knows of an objection by another member of the class. If an objection is known, the gift may
18 be made only by a majority of the members of the class who are reasonably available.

19 (c) A person may not make an anatomical gift if, at the time of the decedent's death, a person
20 in a prior class under subsection (a) is reasonably available to make or to object to the making
21 of an anatomical gift.

22 Section 10. (a) A person authorized to make an anatomical gift under section 9 of this Act

1 may make an anatomical gift by a document of gift signed by the person making the gift or by
2 that person's oral communication that is electronically recorded or is contemporaneously
3 reduced to a record and signed by the individual receiving the oral communication.

4 (b) Subject to subsection (c), an anatomical gift by a person authorized under section 9 of
5 this Act may be amended or revoked orally or in a record by any member of a prior class who
6 is reasonably available. If more than one member of the prior class is reasonably available, the
7 gift made by a person authorized under section 9 of this Act may be:

8 (1) Amended only if a majority of the reasonably available members agree to the
9 amending of the gift; or

10 (2) Revoked only if a majority of the reasonably available members agree to the revoking
11 of the gift or if they are equally divided as to whether to revoke the gift.

12 (c) A revocation under subsection (b) is effective only if, before an incision has been made
13 to remove a part from the donor's body or before invasive procedures have begun to prepare the
14 recipient, the procurement organization, transplant hospital, or physician or technician knows
15 of the revocation.

16 Section 11. (a) An anatomical gift may be made to the following persons named in the
17 document of gift:

18 (1) A hospital; accredited medical school, dental school, college, or university; organ
19 procurement organization; or other appropriate person, for research or education;

20 (2) Subject to subsection (b), an individual designated by the person making the
21 anatomical gift if the individual is the recipient of the part;

22 (3) An eye bank or tissue bank.

23 (b) If an anatomical gift to an individual under subsection (a)(2) cannot be transplanted into

1 the individual, the part passes in accordance with subsection (g) in the absence of an express,
2 contrary indication by the person making the anatomical gift.

3 (c) If an anatomical gift of one or more specific parts or of all parts is made in a document
4 of gift that does not name a person described in subsection (a) but identifies the purpose for
5 which an anatomical gift may be used, the following rules apply:

6 (1) If the part is an eye and the gift is for the purpose of transplantation or therapy, the
7 gift passes to the appropriate eye bank.

8 (2) If the part is tissue and the gift is for the purpose of transplantation or therapy, the gift
9 passes to the appropriate tissue bank.

10 (3) If the part is an organ and the gift is for the purpose of transplantation or therapy, the
11 gift passes to the appropriate organ procurement organization as custodian of the
12 organ.

13 (4) If the part is an organ, an eye, or tissue and the gift is for the purpose of research or
14 education, the gift passes to the appropriate procurement organization.

15 (d) For the purpose of subsection (c), if there is more than one purpose of an anatomical gift
16 set forth in the document of gift but the purposes are not set forth in any priority, the gift must
17 be used for transplantation or therapy, if suitable. If the gift cannot be used for transplantation
18 or therapy, the gift may be used for research or education.

19 (e) If an anatomical gift of one or more specific parts is made in a document of gift that does
20 not name a person described in subsection (a) and does not identify the purpose of the gift, the
21 gift may be used only for transplantation or therapy, and the gift passes in accordance with
22 subsection (g).

23 (f) If a document of gift specifies only a general intent to make an anatomical gift by words

1 such as donor, organ donor, or body donor, or by a symbol or statement of similar import, the
2 gift may be used only for transplantation or therapy, and the gift passes in accordance with
3 subsection (g).

4 (g) For purposes of subsections (b), (e), and (f) the following rules apply:

5 (1) If the part is an eye, the gift passes to the appropriate eye bank.

6 (2) If the part is tissue, the gift passes to the appropriate tissue bank.

7 (3) If the part is an organ, the gift passes to the appropriate organ procurement
8 organization as custodian of the organ.

9 (h) An anatomical gift of an organ for transplantation or therapy, other than an anatomical
10 gift under subsection (a)(2), passes to the organ procurement organization as custodian of the
11 organ.

12 (i) If an anatomical gift does not pass pursuant to subsections (a) through (h) or the
13 decedent's body or part is not used for transplantation, therapy, research, or education, custody
14 of the body or part passes to the person under obligation to dispose of the body or part.

15 (j) A person may not accept an anatomical gift if the person knows that the gift was not
16 effectively made under section 5 or 10 of this Act or if the person knows that the decedent made
17 a refusal under section 7 of this Act that was not revoked. For purposes of the subsection, if a
18 person knows that an anatomical gift was made on a document of gift, the person is deemed to
19 know of any amendment or revocation of the gift or any refusal to make an anatomical gift on
20 the same document of gift.

21 (k) Except as otherwise provided in subsection (a)(2), nothing in this Act affects the
22 allocation of organs for transplantation or therapy.

23 Section 12. (a) The following persons shall make a reasonable search of an individual who

1 the person reasonably believes is dead or near death for a document of gift or other information
2 identifying the individual as a donor or as an individual who made a refusal:

3 (1) A law enforcement officer, firefighter, paramedic, or other emergency rescuer finding
4 the individual; and

5 (2) If no other source of the information is immediately available, a hospital, as soon as
6 practical after the individual's arrival at the hospital.

7 (b) If a document of gift or a refusal to make an anatomical gift is located by the search
8 required by subsection (a)(1) and the individual or deceased individual to whom it relates is
9 taken to a hospital, the person responsible for conducting the search shall send the document
10 of gift or refusal to the hospital.

11 (c) A person is not subject to criminal or civil liability for failing to discharge the duties
12 imposed by this section.

13 Section 13. (a) A document of gift need not be delivered during the donor's lifetime to be
14 effective.

15 (b) Upon or after an individual's death, a person in possession of a document of gift or a
16 refusal to make an anatomical gift with respect to the individual shall allow examination and
17 copying of the document of gift or refusal by a person authorized to make or object to the
18 making of an anatomical gift with respect to the individual or by a person to which the gift could
19 pass under section 11 of this Act.

20 Section 14. (a) When a hospital refers an individual at or near death to a procurement
21 organization, the organization shall make a reasonable search of the records of the Department
22 of Public Safety and any donor registry that it knows exists for the geographical area in which
23 the individual resides to ascertain whether the individual has made an anatomical gift.

1 (b) A procurement organization must be allowed reasonable access to information in the
2 records of the Department of Public Safety to ascertain whether an individual at or near death
3 is a donor.

4 (c) When a hospital refers an individual at or near death to a procurement organization, the
5 organization may conduct any reasonable examination necessary to ensure the medical
6 suitability of a part that is or could be the subject of an anatomical gift for transplantation,
7 therapy, research, or education from a donor or a prospective donor. During the examination
8 period, measures necessary to ensure the medical suitability of the part may not be withdrawn
9 unless the hospital or procurement organization knows that the individual expressed a contrary
10 intent.

11 (d) Unless prohibited by law other than this Act, at any time after a donor's death, the person
12 to which a part passes under section 11 of this Act may conduct any reasonable examination
13 necessary to ensure the medical suitability of the body or part for its intended purpose.

14 (e) Unless prohibited by law other than this Act, an examination under subsection (c) or (d)
15 may include an examination of all medical and dental records of the donor or prospective donor.

16 (f) Upon the death of a minor who was a donor or had signed a refusal, unless a procurement
17 organization knows the minor is emancipated, the procurement organization shall conduct a
18 reasonable search for the parents of the minor and provide the parents with an opportunity to
19 revoke or amend the anatomical gift or revoke the refusal.

20 (g) Upon referral by a hospital under subsection (a), a procurement organization shall make
21 a reasonable search for any person listed in section 9 of this Act having priority to make an
22 anatomical gift on behalf of a prospective donor. If a procurement organization receives
23 information that an anatomical gift to any other person was made, amended, or revoked, it shall

1 promptly advise the other person of all relevant information.

2 (h) Subject to sections 11(i) and 23 of this Act, the rights of the person to which a part
3 passes under section 11 of this Act are superior to the rights of all others with respect to the part.
4 The person may accept or reject an anatomical gift in whole or in part. Subject to the terms of
5 the document of gift and this Act, a person that accepts an anatomical gift of an entire body may
6 allow embalming, burial or cremation, and use of remains in a funeral service. If the gift is of
7 a part, the person to which the part passes under section 11 of this Act, upon the death of the
8 donor and before embalming, burial, or cremation, shall cause the part to be removed without
9 unnecessary mutilation.

10 (i) Neither the physician who attends the decedent at death nor the physician who determines
11 the time of the decedent's death may participate in the procedures for removing or transplanting
12 a part from the decedent.

13 (j) A physician or technician may remove a donated part from the body of a donor that the
14 physician or technician is qualified to remove.

15 Section 15. Each hospital in this state shall enter into agreements or affiliations with
16 procurement organizations for coordination of procurement and use of anatomical gifts.

17 Section 16. (a) Except as otherwise provided in subsection (b), a person that for valuable
18 consideration, knowingly purchases or sells a part for transplantation or therapy if removal of
19 a part from an individual is intended to occur after the individual's death commits a Class 5
20 felony.

21 (b) A person may charge a reasonable amount for the removal, processing, preservation,
22 quality control, storage, transportation, implantation, or disposal of a part.

23 Section 17. A person that, in order to obtain a financial gain, intentionally falsifies, forges,

1 conceals, defaces, or obliterates a document of gift, an amendment or revocation of a document
2 of gift, or a refusal commits a Class 5 felony.

3 Section 18. (a) A person that acts in accordance with this Act or with the applicable
4 anatomical gift law of another state, or attempts in good faith to do so, is not liable for the act
5 in a civil action, criminal prosecution, or administrative proceeding.

6 (b) Neither the person making an anatomical gift nor the donor's estate is liable for any
7 injury or damage that results from the making or use of the gift.

8 (c) In determining whether an anatomical gift has been made, amended, or revoked under
9 this Act, a person may rely upon representations of an individual listed in section 9(a)(2), (3),
10 (4), (5), (6), (7), or (8) of this Act relating to the individual's relationship to the donor or
11 prospective donor unless the person knows that the representation is untrue.

12 Section 19. (a) A document of gift is valid if executed in accordance with:

13 (1) This Act;

14 (2) The laws of the state or country where it was executed; or

15 (3) The laws of the state or country where the person making the anatomical gift was
16 domiciled, has a place of residence, or was a national at the time the document of gift
17 was executed.

18 (b) If a document of gift is valid under this section, the law of this state governs the
19 interpretation of the document of gift.

20 (c) A person may presume that a document of gift or amendment of an anatomical gift is
21 valid unless that person knows that it was not validly executed or was revoked.

22 Section 20. (a) The Department of Public Safety may establish or contract for the

1 establishment of a donor registry.

2 (b) The Department of Public Safety shall cooperate with a person that administers any
3 donor registry that this state establishes, contracts for, or recognizes for the purpose of
4 transferring to the donor registry all relevant information regarding a donor's making,
5 amendment to, or revocation of an anatomical gift.

6 (c) A donor registry must:

7 (1) Allow a donor or other person authorized under section 4 of this Act to include on
8 the donor registry a statement or symbol that the donor has made, amended, or
9 revoked an anatomical gift;

10 (2) Be accessible to a procurement organization to allow it to obtain relevant information
11 on the donor registry to determine, at or near death of the donor or a prospective
12 donor, whether the donor or prospective donor has made, amended, or revoked an
13 anatomical gift; and

14 (3) Be accessible for purposes of paragraph (2) seven days a week on a twenty-four hour
15 basis.

16 (d) Personally identifiable information on a donor registry about a donor or prospective
17 donor may not be used or disclosed without the express consent of the donor, prospective donor,
18 or person that made the anatomical gift for any purpose other than to determine, at or near death
19 of the donor or prospective donor, whether the donor or prospective donor has made, amended,
20 or revoked an anatomical gift.

21 (e) This section does not prohibit any person from creating or maintaining a donor registry
22 that is not established by or under contract with the state. Any such registry must comply with
23 subsections (c) and (d).

1 Section 21. (a) In this section:

2 (1) "Advance health care directive" means a power of attorney for health care or a record
3 signed by a prospective donor containing the prospective donor's direction
4 concerning a health care decision for the prospective donor.

5 (2) "Declaration" means a record signed by a prospective donor specifying the
6 circumstances under which a life support system may be withheld or withdrawn from
7 the prospective donor.

8 (3) "Health care decision" means any decision made regarding the health care of the
9 prospective donor.

10 (b) If a prospective donor has a declaration or advance health care directive, measures
11 necessary to ensure the medical suitability of an organ for transplantation or therapy may not
12 be withheld or withdrawn from the prospective donor, unless the declaration expressly provides
13 to the contrary.

14 Section 22. (a) A coroner shall cooperate with procurement organizations to maximize the
15 opportunity to recover anatomical gifts for the purpose of transplantation, therapy, research, or
16 education.

17 (b) If a coroner receives notice from a procurement organization that an anatomical gift
18 might be available or was made with respect to a decedent whose body is under the jurisdiction
19 of the coroner and a post-mortem examination is going to be performed, unless the coroner
20 denies recovery in accordance with section 23 of this Act, the coroner or designee shall conduct
21 a post-mortem examination of the body or the part in a manner and within a period compatible
22 with its preservation for the purposes of the gift.

23 (c) A part may not be removed from the body of a decedent under the jurisdiction of a

1 coroner for transplantation, therapy, research, or education unless the part is the subject of an
2 anatomical gift. The body of a decedent under the jurisdiction of the coroner may not be
3 delivered to a person for research or education unless the body is the subject of an anatomical
4 gift. This subsection does not preclude a coroner from performing the medicolegal investigation
5 upon the body or parts of a decedent under the jurisdiction of the coroner.

6 Section 23. (a) Upon request of a procurement organization, a coroner shall release to the
7 procurement organization the name, contact information, and available medical and social
8 history of a decedent whose body is under the jurisdiction of the coroner. If the decedent's body
9 or part is medically suitable for transplantation, therapy, research, or education, the coroner shall
10 release post-mortem examination results to the procurement organization. The procurement
11 organization may make a subsequent disclosure of the post-mortem examination results or other
12 information received from the coroner only if relevant to transplantation or therapy.

13 (b) The coroner may conduct a medicolegal examination by reviewing all medical records,
14 laboratory test results, X rays, other diagnostic results, and other information that any person
15 possesses about a donor or prospective donor whose body is under the jurisdiction of the
16 coroner which the coroner determines may be relevant to the investigation.

17 (c) A person that has any information requested by a coroner pursuant to subsection (b) shall
18 provide that information as expeditiously as possible to allow the coroner to conduct the
19 medicolegal investigation within a period compatible with the preservation of parts for the
20 purpose of transplantation, therapy, research, or education.

21 (d) If an anatomical gift has been or might be made of a part of a decedent whose body is
22 under the jurisdiction of the coroner and a post-mortem examination is not required, or the
23 coroner determines that a post-mortem examination is required but that the recovery of the part

1 that is the subject of an anatomical gift will not interfere with the examination, the coroner and
2 procurement organization shall cooperate in the timely removal of the part from the decedent
3 for the purpose of transplantation, therapy, research, or education.

4 (e) If an anatomical gift of a part from the decedent under the jurisdiction of the coroner has
5 been or might be made, but the coroner initially believes that the recovery of the part could
6 interfere with the post-mortem investigation into the decedent's cause or manner of death, the
7 coroner shall consult with the procurement organization or physician or technician designated
8 by the procurement organization about the proposed recovery. After consultation, the coroner
9 may allow the recovery.

10 (f) Following the consultation under subsection (e), in the absence of mutually agreed upon
11 protocols to resolve conflict between the coroner and the procurement organization, if the
12 coroner intends to deny recovery of an organ for transplanation, the coroner or designee, at the
13 request of the procurement organization, shall attend the removal procedure for the part before
14 making a final determination not to allow the procurement organization to recover the part.
15 During the removal procedure, the coroner or designee may allow recovery by the procurement
16 organization to proceed, or, if the coroner or designee reasonably believes that the part may be
17 involved in determining the decedent's cause or manner of death, deny recovery by the
18 procurement organization.

19 (g) If the coroner or designee denies recovery under subsection (f), the coroner or designee
20 shall:

- 21 (1) Explain in a record the specific reasons for not allowing recovery of the part;
- 22 (2) Include the specific reasons in the records of the coroner; and
- 23 (3) Provide a record with the specific reasons to the procurement organization.

1 (h) If the coroner or designee allows recovery of a part under subsection (d), (e), or (f), the
2 procurement organization, upon request, shall cause the physician or technician who removes
3 the part to provide the coroner with a record describing the condition of the part, a biopsy, a
4 photograph, and any other information and observations that would assist in the post-mortem
5 examination.

6 (i) If a coroner or designee is required to be present at a removal procedure under subsection
7 (f), upon request the procurement organization requesting the recovery of the part shall
8 reimburse the coroner or designee for the additional costs incurred in complying with subsection
9 (f).

10 Section 24. In applying and construing this uniform act, consideration must be given to the
11 need to promote uniformity of the law with respect to its subject matter among states that enact
12 it.

13 Section 25. This Act modifies, limits, and supersedes the Electronic Signatures in Global
14 and National Commerce Act, 15 U.S.C. section 7001 et seq., but does not modify, limit or
15 supersede section 101(a) of that act, 15 U.S.C. section 7001, or authorize electronic delivery of
16 any of the notices described in section 103(b) of that act, 15 U.S.C. section 7003(b).

17 Section 26. That §§ 34-26-20, 34-26-21, and 34-26-22 to 34-26-46, inclusive, be repealed.

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

970N0652

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **SB 198** - 02/26/2007

Introduced by: Senators Gant, Apa, Heidepriem, McCracken, Schmidt (Dennis), and Smidt (Orville) and Representatives Willadsen, DeVries, Novstrup (Al), and Weems

1 FOR AN ACT ENTITLED, An Act to provide for an Open Government Commission and the
2 study of open government issues.

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

4 Section 1. The Executive Board of the Legislative Research Council shall establish an Open
5 Government Commission during the 2007 legislative interim. The commission shall consist of
6 six members. Three members, no more than two from one political party, shall be state senators
7 selected by the president pro tempore of the Senate. Three members, no more than two from one
8 political party, shall be state representatives selected by the speaker of the House of
9 Representatives.

10 Section 2. The Open Government Commission shall carefully examine the report of the
11 Attorney General. Moreover, the commission may, at its discretion, examine any school district,
12 city, county, and state government entities and their actions, and shall specifically address which
13 matters should be open to the public and which should not.



1 Section 3. The Open Government Commission shall embody its recommendations for
2 amendment in draft legislation and submit its recommendations to the Executive Board no later
3 than the Executive Board's final interim meeting.

4 Section 4. That section 1 of chapter 11 of the 2006 Session Laws be amended to read as
5 follows:

6 Section 1. The attorney general is hereby directed to study open government issues in South
7 Dakota. The study shall address school district, city, county, and state government entities and
8 their actions, and shall specifically address which matters are open to the public and which are
9 not. The attorney general shall report findings and recommendations to the executive board of
10 the Legislative Research Council by ~~June 30, 2007~~ September 1, 2007.

11 Section 5. The provisions of this Act are repealed on January 1, 2008.

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

418N0639

HOUSE JUDICIARY COMMITTEE ENGROSSED NO. SB 202 - 02/23/2007

Introduced by: Senator Gray and Representative Lust

1 FOR AN ACT ENTITLED, An Act to increase the exemption from process of certain
2 retirement benefits.

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

4 Section 1. That § 43-45-16 be amended to read as follows:

5 43-45-16. Any person ~~shall have~~ has the right to select and designate a total of ~~two hundred~~
6 ~~fifty thousand~~ one million dollars and the income and distributions therefrom from the
7 employee's benefit plans as exempt from execution, attachment, garnishment, seizure, or taking
8 by any legal process. This exemption is subject to the right of the State of South Dakota and its
9 political subdivisions to collect any amounts owed to them. This section permits benefits under
10 such plan or arrangement to be payable to a spouse, former spouse, child, or other dependent
11 of a participant in such plan to the extent expressly provided for in a qualified domestic relations
12 order as defined in 29 U.S.C. § 1056(d) or in § 401(a)(13) of the Internal Revenue Code.

13 Section 2. That § 43-45-17 be amended to read as follows:



1 43-45-17. For the purposes of §§ 43-45-16 to 43-45-18, inclusive, the term, employee
2 benefit plan, means any plan or arrangement that is subject to the provisions of 29 U.S.C.
3 §§ 1001 through 1461, as amended, and in effect on January 1, ~~2000~~ 2007, or that is described
4 in § 401, 403(a), 403(b), 408, 408A, ~~or 409, 414, 457, or 501(a)~~ of the Internal Revenue Code,
5 as amended, and in effect as of January 1, ~~2000~~ 2007. The term, employee benefit plan, does not
6 include any employee benefit plan that is excluded from application pursuant to 29 U.S.C.
7 § 1003(b)(1), as amended, and in effect as of January 1, ~~2000~~ 2007.

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

400N0766

HOUSE APPROPRIATIONS COMMITTEE ENGROSSED

NO. **SB 218** - 02/26/2007

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

1 FOR AN ACT ENTITLED, An Act to authorize the South Dakota Building Authority to
2 provide for the construction, reconstruction, renovation, and modernization of state park
3 facilities and infrastructure at Custer State Park near Custer for the Department of Game,
4 Fish and Parks, to make an appropriation, and to declare an emergency.

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

6 Section 1. It is in the public interest that the South Dakota Building Authority contract for
7 the construction, reconstruction, renovation, and modernization of facilities and related
8 infrastructure at Custer State Park including buildings, fixtures, plumbing, water, sewer, electric
9 facilities, domestic water treatment systems, asbestos removal, electrical upgrades, architectural,
10 engineering, and bonding services, site preparation, construction of facilities and improvements
11 to the outside of the facilities, and landscaping the grounds of the facilities. The construction,
12 reconstruction, renovation, and modernization of facilities and related infrastructure shall
13 address priority needs identified in the Custer State Park Concession Facility Assessment



1 prepared in 2005 and other needs and revenue enhancement opportunities in Custer State Park.
2 The Building Authority may finance this project, including the issuance of revenue bonds not
3 to exceed twelve million dollars, in accordance with this Act and chapter 5-12.

4 Section 2. There is hereby created within the state treasury the Custer State Park
5 improvement fund. The sole purpose of this fund is to facilitate the provisions of this Act.

6 Section 3. There is hereby appropriated from the general fund an amount not to exceed
7 twelve million dollars (\$12,000,000), or so much thereof as may be necessary, to the Custer
8 State Park improvement fund for the expenditures authorized by this Act. The Custer state park
9 improvement fund shall be invested through the State Investment Council as part of the state
10 cash flow fund. There is hereby appropriated to the Department of Game, Fish and Parks, twelve
11 million dollars (\$12,000,000), or so much thereof as may be necessary, of other fund
12 expenditure authority for expenditures authorized by this Act.

13 Section 4. The entire amount appropriated pursuant to section 3 of this Act, shall be repaid,
14 with interest, to the general fund. The repayment to the general fund shall take no longer than
15 four years from the date of the appropriation of monies from the general fund to the Custer State
16 Park improvement fund as provided in section 3 of this Act, and the interest rate used to
17 calculate the annual repayment amount shall equal the average interest rate earned by the state
18 cash flow fund over the last four quarters as supplied by the Bureau of Finance and
19 Management. Starting on January 1, 2009, the Department of Game, Fish and Parks shall make
20 annual payments to the general fund based upon a twenty year amortization schedule for the
21 outstanding balance due to the general fund.

22 Section 5. To minimize the length of time required to fully reimburse the general fund for
23 the amounts appropriated to the Custer State Park improvement fund, the Department of Game,

1 Fish and Parks shall work with the Building Authority and other departments and agencies of
2 the state to take advantage of every future opportunity to issue tax exempt bonds, up to the
3 maximum amount allowed under §§ 103 and 140 to 150, inclusive, of the Internal Revenue
4 Code for each bond issue. Any additional funds generated from each tax exempt bond issue not
5 required or dedicated to be used by any such other department or agency of the state shall be
6 used to repay the general fund until the total amount appropriated from the general fund
7 pursuant to section 3 of this Act, has been repaid with interest.

8 Section 6. Pursuant to section 4 of this Act, if the Building Authority and the Department
9 of Game, Fish and Parks determine tax exempt bonding opportunities and other sources of
10 repayment are insufficient to repay the total amount appropriated from the general fund, the
11 Department of Game, Fish and Parks shall work with the Building Authority to issue bonds in
12 an amount sufficient to fully repay the remaining amount required to fully restore the general
13 fund.

14 Section 7. If at any point in time before the general fund has been fully repaid, the
15 Legislature determines that the need exists to fully restore the amounts appropriated from the
16 general fund to the Custer State Park improvement fund as provided in section 3 of this Act,
17 then the Department of Game, Fish and Parks shall work with the Building Authority to issue
18 bonds in an amount great enough to fully restore the amounts appropriated from the general
19 fund.

20 Section 8. No indebtedness, bond, or obligation incurred or created under authority of this
21 Act may be or may become a lien, charge, or liability against the State of South Dakota, nor
22 against the property or funds of the State of South Dakota within the meaning of the
23 Constitution or statutes of South Dakota.

1 Section 9. The Building Authority may accept any funds obtained from gifts, contributions,
2 or other sources for the purposes stated in section 1 of this Act.

3 Section 10. The Department of Game, Fish and Parks may make and enter in a lease
4 agreement with the Building Authority and make rental payments under the terms thereof,
5 pursuant to chapter 5-12, from appropriations to be made by the Legislature for the payment of
6 rent to support the construction, completion, furnishing, equipping, payment of revenue bonds
7 issued pursuant to this Act, and repayment of construction costs paid through the funds
8 appropriated from the general fund pursuant to section 3 of this Act. The Custer State Park bond
9 redemption fund as created in § 41-17-22.5 shall pay lease rental amounts to the Building
10 Authority or to restore the general fund, as applicable.

11 Section 11. Upon receipt of payment of the balance of rental payments made under the terms
12 of any lease entered into pursuant to section 10 of this Act, the Building Authority shall convey
13 the leased property improvements in Custer State Park to the Department of Game, Fish and
14 Parks pursuant to § 5-12-15.

15 Section 12. The design and construction of improvements shall be under the general charge
16 and supervision of the Bureau of Administration as provided in § 5-14-2.

17 Section 13. Except as provided in section 3 of this Act, no money from the general fund nor
18 any money appropriated for statewide maintenance and repair may be used to finance the
19 maintenance and repair of the facilities specified in this Act.

20 Section 14. No money appropriated pursuant to this Act may be used for the construction
21 or acquisition of any new camping cabins in Custer State Park.

22 Section 15. The secretary of the Department of Game, Fish and Parks shall approve
23 vouchers and the state auditor shall draw warrants to pay expenditures authorized by this Act.

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

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

770N0098

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED NO. **SJR 9** - 02/23/2007

Introduced by: Senators Gray, Hunhoff, Koetzle, Olson (Ed), and Peterson (Jim) and Representatives Heineman, Dennert, Pederson (Gordon), and Putnam at the request of the Constitutional Revision Commission

1 A JOINT RESOLUTION, To propose a constitutional amendment to provide for forty-day
2 legislative sessions.

3 BE IT RESOLVED BY THE SENATE OF THE STATE OF SOUTH DAKOTA, THE HOUSE
4 OF REPRESENTATIVES CONCURRING THEREIN:

5 Section 1. That at the next general election held in the state, the following amendment to
6 Article III, section 6 of the Constitution of the State of South Dakota, as set forth in section 2
7 of this Joint Resolution, which is hereby agreed to, shall be submitted to the electors of the state
8 for approval.

9 Section 2. That Article III, section 6 of the Constitution of the State of South Dakota, be
10 amended to read as follows:

11 § 6. The terms of office of the members of the Legislature shall be two years; they shall
12 receive for their services the salary fixed by law under the provisions of § 2 of article XXI of



1 this Constitution, and five cents for every mile of necessary travel in going to and returning from
2 the place of meeting of the Legislature on the most usual route.

3 No person may serve more than four consecutive terms or a total of eight consecutive years
4 in the senate and more than four consecutive terms or a total of eight consecutive years in the
5 house of representatives. However, this restriction does not apply to partial terms to which a
6 legislator may be appointed or to legislative service before January 1, 1993.

7 A regular session of the Legislature shall be held in each ~~odd-numbered~~ year and shall not
8 exceed forty legislative days, excluding Sundays, holidays and legislative recess, except in cases
9 of impeachment, and members of the Legislature shall receive no other pay or perquisites except
10 salary and mileage.

11 ~~A regular session of the Legislature shall be held in each even-numbered year beginning~~
12 ~~with the year 1964 and shall not exceed thirty-five legislative days, excluding Sundays, holidays~~
13 ~~and legislative recess, except in cases of impeachment, and members of the Legislature shall~~
14 ~~receive no other pay or perquisites except salary and mileage.~~