

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

400N0299

SENATE GOVERNMENT OPERATIONS AND AUDIT
COMMITTEE ENGROSSED NO. **HB 1041** -
02/26/2007

Introduced by: The Committee on Commerce at the request of the Cosmetology Commission

1 FOR AN ACT ENTITLED, An Act to revise the fees for cosmetology, nail technology, and
2 esthetics.

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

4 Section 1. That § 36-15-20 be amended to read as follows:

5 36-15-20. The fees promulgated in rules by the commission pursuant to chapter 1-26 for all
6 examinations, licenses, permits, and renewals required by this chapter may not exceed the
7 following maximums:

8 (1) Cosmetologist examination fee, sixty dollars;

9 ~~(2) Cosmetologist license fee, fifteen dollars;~~

10 ~~(3) Cosmetologist license renewal fee, fifteen dollars;~~

11 ~~(4) Cosmetologist-manager license fee, fifteen dollars;~~

12 ~~(5) Cosmetologist-manager license renewal fee, fifteen dollars;~~

13 ~~(6) Nail technician examination fee, sixty dollars;~~

14 ~~(7) Nail technician license fee, fifteen dollars;~~

15 ~~(8) Nail technician license renewal fee, fifteen dollars;~~



- 1 ~~(9) Nail technician-manager license fee, fifteen dollars;~~
- 2 ~~(10) Nail technician-manager license renewal fee, fifteen dollars;~~
- 3 ~~(11) Esthetician examination fee, eighty dollars;~~
- 4 ~~(12) Esthetician license fee, twenty-five dollars;~~
- 5 ~~(13) Esthetician license renewal fee, twenty-five dollars;~~
- 6 ~~(14) Esthetician-manager license fee, twenty-five dollars;~~
- 7 ~~(15) Esthetician-manager license renewal fee, twenty-five dollars;~~
- 8 ~~(16) Temporary cosmetologist, nail technician, or esthetician license fee, six dollars;~~
- 9 ~~(17) Junior instructor license fee, fifteen dollars;~~
- 10 ~~(18) Junior instructor license renewal fee, fifteen dollars;~~
- 11 ~~(19) Senior instructor license fee, fifteen dollars;~~
- 12 ~~(20) Senior instructor license renewal fee, fifteen dollars;~~
- 13 ~~(21) Reciprocity and waiver of examination fee, one hundred dollars;~~
- 14 ~~(22) Temporary permit based on reciprocal recognition of another state license, six~~
15 ~~dollars;~~
- 16 ~~(23) For endorsement of a certificate issued under this chapter, for a South Dakota~~
17 ~~licensee to obtain reciprocity in another state, or furnishing of other papers to another~~
18 ~~state or school, twenty dollars;~~
- 19 ~~(24) Apprentice license fee, twenty-five dollars;~~
- 20 ~~(25) Apprentice salon license fee, two hundred fifty dollars;~~
- 21 ~~(26) Apprentice salon license renewal fee, two hundred fifty dollars;~~
- 22 ~~(27) School license fee, two hundred fifty dollars;~~
- 23 ~~(28) School license renewal fee, two hundred fifty dollars;~~
- 24 ~~(29) Student license fee, six dollars;~~

- 1 ~~(30) Cosmetology salon or booth license fee, sixty dollars;~~
- 2 ~~(31) Cosmetology salon or booth license renewal fee, thirty dollars;~~
- 3 ~~(32) Nail salon or booth license fee, sixty dollars;~~
- 4 ~~(33) Nail salon or booth license renewal fee, thirty dollars;~~
- 5 ~~(34) Esthetics salon or booth license fee, eighty dollars;~~
- 6 ~~(35) Esthetics salon or booth license renewal fee, thirty dollars;~~
- 7 ~~(36) License duplicate or replacement fee, five dollars~~ Examination fee which includes
- 8 the initial license, one hundred dollars;
- 9 (2) Examination retake fee, one test, sixty dollars; two tests, seventy dollars; three tests,
- 10 eighty dollars;
- 11 (3) Cosmetologist, nail technician, or esthetician license renewal fee, twenty-five dollars;
- 12 (4) Temporary cosmetologist, nail technician, or esthetician license fee, six dollars;
- 13 (5) Instructor initial license fee and license renewal fee, thirty-five dollars;
- 14 (6) Reciprocity, initial license, and waiver of examination fee, one hundred dollars;
- 15 (7) For certification of a license issued under this chapter for a South Dakota licensee to
- 16 obtain licensure in another state, or furnishing of other papers to another state or
- 17 school, twenty dollars;
- 18 (8) Apprentice license fee, twenty-five dollars;
- 19 (9) Apprentice salon initial license and renewal fee, two hundred fifty dollars;
- 20 (10) School initial license fee and renewal fee, three hundred dollars;
- 21 (11) Student license fee, six dollars;
- 22 (12) Salon or booth initial permit license fee, sixty dollars;
- 23 (13) Salon or booth license renewal fee, forty dollars;
- 24 (14) Reinspection fee for failed salon, fifty dollars for each reinspection;

1 (15) License duplicate or replacement fee, five dollars.

2 Any license, permit, or renewal fee which is collected by the commission shall be the same
3 for each respective license, permit, or renewal regardless of the time remaining before the
4 expiration date.

5 Section 2. That § 36-15-20.1 be amended to read as follows:

6 36-15-20.1. The commission shall promulgate reasonable rules pursuant to chapter 1-26
7 concerning the reinstatement of lapsed licenses and lapsed renewals required by this chapter.
8 The commission shall by rules promulgated pursuant to chapter 1-26 establish the fee, which
9 may not be greater than ~~ten~~ twenty-five dollars for each year that ~~such~~ the license or renewal has
10 lapsed. The commission shall also collect the fee for ~~such~~ the license and renewal as otherwise
11 required by this chapter.

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

400N0381 **HOUSE APPROPRIATIONS COMMITTEE ENGROSSED**
NO. HB 1060 - 02/09/2007

Introduced by: The Committee on Appropriations at the request of the Department of
Corrections

1 FOR AN ACT ENTITLED, An Act to authorize the Department of Corrections to purchase real
2 property, to make an appropriation therefor, and to declare an emergency.

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

4 Section 1. The Department of Corrections may purchase real property located in Pennington
5 County, Lawrence County, Meade County, Custer County, or Butte County.

6 Section 2. There is hereby appropriated from the prison industries revolving fund the sum
7 of one dollar (\$1), or so much thereof as may be necessary, to the Department of Corrections
8 for the purchase of property described in section 1 of this Act.

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



State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

400N0341

SENATE APPROPRIATIONS COMMITTEE

ENGROSSED NO. **HB 1063** - 02/26/2007

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

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

1 FOR AN ACT ENTITLED, An Act to make an appropriation to fund state university
2 information technology.

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 one million three
5 hundred thousand dollars (\$1,300,000), or so much thereof as may be necessary, to the Board
6 of Regents to fund state university information technology.

7 Section 2. The executive director of the Board of Regents 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

553N0410

SENATE HEALTH AND HUMAN SERVICES
COMMITTEE ENGROSSED NO. **HB 1155** -
02/26/2007

Introduced by: Representatives Van Etten, Boomgarden, Heineman, Jerke, Kirkeby, Lucas, Miles, Rave, Steele, and Weems and Senators Hansen (Tom), Dempster, Gant, Maher, and Olson (Ed)

1 FOR AN ACT ENTITLED, An Act to revise certain provisions concerning wholesale drug
2 distributors.

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

4 Section 1. That § 36-11A-1 be amended to read as follows:

5 36-11A-1. Terms used in this chapter mean:

- 6 (1) "Authentication," to affirmatively verify before any wholesale distribution of a
7 prescription drug occurs that each transaction listed on the pedigree has occurred;
- 8 (2) "Board," the State Board of Pharmacy;
- 9 (3) "Chain pharmacy warehouse," a physical location for prescription drugs that acts as
10 a central warehouse and performs intracompany sales or transfers of such drugs to
11 a group of chain pharmacies that have the same common ownership and control;
- 12 (4) Co-licensed partner," a party that, with another party or parties, has the right to
13 engage in the manufacturing or marketing, or both, of a co-licensed product;
- 14 (5) "Co-licensed product," a prescription drug in which two or more parties have the



1 right to engage in the manufacturing or marketing, or both, of a drug consistent with
2 the federal Food and Drug Administration's implementation of the Prescription Drug
3 Marketing Act (21 C.F.R. Parts 203 and 205);

4 ~~(2)(6)~~ "Drug," "prescription drug," any human drug, including any biological product,
5 except for blood and blood components intended for transfusion or biological
6 products that are also medical devices required by federal law or federal regulation
7 to be dispensed only by a prescription, including finished dosage forms and active
8 ingredients bulk drug substances subject to § 503(b) of the Federal Food, Drug and
9 Cosmetic Act as amended through January 1, 1991;

10 ~~(3)(7)~~ "Drug coupon," a form which may be redeemed at no cost or at reduced cost for a
11 prescription drug;

12 (8) "Drug Enforcement Administration," the Drug Enforcement Administration of the
13 United States Department of Justice;

14 ~~(4)(9)~~ "Drug sample," a unit of a prescription drug that is not intended to be sold and is
15 intended to promote the sale of the drug;

16 (10) "Facility," a facility of a wholesale distributor where prescription drugs are stored,
17 handled, repackaged, or offered for sale;

18 ~~(5)(11)~~ "Manufacturer," ~~anyone who is engaged in manufacturing, preparing,~~
19 ~~propagating, compounding, processing, packaging, repackaging or labeling of~~
20 ~~a prescription drug~~ as defined by the federal Food and Drug Administration's
21 regulations implementing the Prescription Drug Marketing Act (21 C.F.R.
22 Parts 203 and 205);

23 ~~(6)(12)~~ "Out-of-state wholesale drug distributor," a wholesale drug distributor with no
24 physical facilities located in this state;

1 distributor by the manufacturer of the prescription drug, or that manufacturer's co-licensed
2 product partner, that manufacturer's third party logistics provider, or that manufacturer's
3 exclusive distributor, whereby the wholesale distributor or chain pharmacy warehouse takes title
4 but not physical possession of such prescription drug and the wholesale distributor invoices the
5 pharmacy or chain pharmacy warehouse, or other person authorized by law to dispense or
6 administer such drug to a patient, and the pharmacy or chain pharmacy warehouse or other
7 authorized person receives delivery of the prescription drug directly from the manufacturer, or
8 that manufacturer's third party logistics provider, or that manufacturer's exclusive distributor.

9 Section 4. That chapter 36-11A be amended by adding thereto a NEW SECTION to read
10 as follows:

11 For the purposes of this Act, a manufacturer's exclusive distributor is any person who
12 contracts with a manufacturer to provide or coordinate warehousing, distribution, or other
13 services on behalf of a manufacturer and who takes title to that manufacturer's prescription drug,
14 but who does not have general responsibility to direct the sale or disposition of the
15 manufacturer's prescription drug. Such manufacturer's exclusive distributor must be licensed as
16 a wholesale distributor under this Act, and to be considered part of the normal distribution
17 channel must also be an authorized distributor of record.

18 Section 5. That chapter 36-11A be amended by adding thereto a NEW SECTION to read
19 as follows:

20 For the purposes of this Act, a normal distribution channel is a chain of custody for a
21 prescription drug that goes from a manufacturer of the prescription drug, or from that
22 manufacturer to that manufacturer's co-licensed partner, or from that manufacturer to that
23 manufacturer's third-party logistics provider, or from that manufacturer to that manufacturer's
24 exclusive distributor, directly or by drop shipment, to:

- 1 (1) A pharmacy to a patient or other designated persons authorized by law to dispense
2 or administer such drug to a patient;
- 3 (2) A wholesale distributor to a pharmacy to a patient or other designated persons
4 authorized by law to dispense or administer such drug to a patient;
- 5 (3) A wholesale distributor to a chain pharmacy warehouse to that chain pharmacy
6 warehouse's intracompany pharmacy to a patient or other designated persons
7 authorized by law to dispense or administer such drug to a patient; or
- 8 (4) A chain pharmacy warehouse to the chain pharmacy warehouse's intracompany
9 pharmacy to a patient or other designated persons authorized by law to dispense or
10 administer such drug to a patient.

11 Section 6. That chapter 36-11A be amended by adding thereto a NEW SECTION to read
12 as follows:

13 For the purposes of this Act, a third party logistics provider is any person who contracts with
14 a prescription drug manufacturer to provide or coordinate warehousing, distribution, or other
15 services on behalf of a manufacturer, but does not take title to the prescription drug or have
16 general responsibility to direct the prescription drug's sale or disposition. Such third party
17 logistics provider must be licensed as a wholesale distributor under this Act, and to be
18 considered part of the normal distribution channel must also be an authorized distributor of
19 record.

20 Section 7. That chapter 36-11A be amended by adding thereto a NEW SECTION to read
21 as follows:

22 For the purposes of this Act, a wholesale distributor is any person engaged in the wholesale
23 distribution of prescription drugs, including manufacturers; repackagers; own-label distributors;
24 private-label distributors; jobbers; brokers; warehouses, including manufacturers' and

1 distributors' warehouses; manufacturer's exclusive distributors; authorized distributors of record;
2 drug wholesalers or distributors; independent wholesale drug traders; specialty wholesale
3 distributors; third party logistics providers; retail pharmacies that conduct wholesale
4 distribution; hospital pharmacies; reverse distributors; and chain pharmacy warehouses that
5 conduct wholesale distribution. To be considered part of the normal distribution channel such
6 wholesale distributor must also be an authorized distributor of record.

7 Section 8. That chapter 36-11A be amended by adding thereto a NEW SECTION to read
8 as follows:

9 For the purposes of this Act, wholesale distribution is distribution of prescription drugs to
10 persons other than a consumer or patient, but does not include:

- 11 (1) Intracompany sales of prescription drugs, meaning any transaction or transfer
12 between any division, subsidiary, parent or affiliated or related company under
13 common ownership and control of a corporate entity, or any transaction or transfer
14 between co-licensees of a co-licensed product;
- 15 (2) The sale, purchase, distribution, trade, or transfer of a prescription drug or offer to
16 sell, purchase, distribute, trade, or transfer a prescription drug for emergency medical
17 reasons;
- 18 (3) The distribution of prescription drug samples by manufacturers' representatives;
- 19 (4) Drug returns, when conducted by a hospital, health care entity, or charitable
20 institution in accordance with 21 C.F.R. § 203.23;
- 21 (5) The sale of minimal quantities of prescription drugs by retail pharmacies to licensed
22 practitioners for office use;
- 23 (6) The sale, purchase, or trade of a drug, an offer to sell, purchase, or trade a drug, or
24 the dispensing of a drug pursuant to a prescription;

- 1 (7) The sale, transfer, merger, or consolidation of all or part of the business of a
2 pharmacy or pharmacies from or with another pharmacy or pharmacies, whether
3 accomplished as a purchase and sale of stock or business assets;
- 4 (8) The sale, purchase, distribution, trade, or transfer of a prescription drug from one
5 authorized distributor of record to one additional authorized distributor of record
6 when the manufacturer has stated in writing to the receiving authorized distributor
7 of record that the manufacturer is unable to supply such prescription drug and the
8 supplying authorized distributor of record states in writing that the prescription drug
9 being supplied had until that time been exclusively in the normal distribution
10 channel;
- 11 (9) The delivery of, or offer to deliver, a prescription drug by a common carrier solely
12 in the common carrier's usual course of business of transporting prescription drugs,
13 and such common carrier does not store, warehouse, or take legal ownership of the
14 prescription drug;
- 15 (10) The sale or transfer from a retail pharmacy or chain pharmacy warehouse of expired,
16 damaged, returned, or recalled prescription drugs to the original manufacturer or to
17 a third party returns processor.

18 Section 9. That chapter 36-11A be amended by adding thereto a NEW SECTION to read
19 as follows:

20 Any wholesale distributor who engages in the wholesale distribution of prescription drugs
21 in this state must be licensed by the board, in accordance with this Act, before engaging in
22 wholesale distributions of wholesale prescription drugs. The board shall exempt manufacturers
23 distributing their own FDA-approved drugs and devices from any qualifications required for
24 licensing, to the extent not required by federal law or regulation, including the requirements in

1 subdivisions (7) and (8) of section 10 of this Act, and sections 11 to 13, inclusive, of this Act.

2 Section 10. That chapter 36-11A be amended by adding thereto a NEW SECTION to read
3 as follows:

4 The board shall require the following minimum information from each wholesale distributor
5 applying to obtain a license under section 9 of this Act:

- 6 (1) The name, full business address, and telephone number of the licensee;
- 7 (2) Any trade or business name used by the licensee;
- 8 (3) The address, telephone number, and the name of any contact person for any facilities
9 used by the licensee for the storage, handling, and distribution of prescription drugs;
- 10 (4) The type of ownership or operation;
- 11 (5) The name of the owner and the operator of the licensee, including:
 - 12 (a) If a person, the name of the person;
 - 13 (b) If a partnership, the name of each partner, and the name of the partnership;
 - 14 (c) If a corporation, the name and title of each corporate officer and director, the
15 corporate names, and the name of the state of incorporation; and
 - 16 (d) If a sole proprietorship, the full name of the sole proprietor and the name of
17 the business entity;
- 18 (6) A list of all licenses and permits issued to the applicant by any other state that
19 authorizes the applicant to purchase or possess prescription drugs;
- 20 (7) The name of the applicant's designated representative for the facility, together with
21 the personal information statement and fingerprints, required pursuant to subdivision
22 (8) for such person;
- 23 (8) Each person required by subdivision (7) to provide a personal information statement
24 and fingerprints, if required, shall provide the following information to the board:

- 1 (a) The person's places of residence for the past seven years;
- 2 (b) The person's date and place of birth;
- 3 (c) The person's occupations, positions of employment, and offices held during
4 the past seven years;
- 5 (d) The principal business and address of any business, corporation, or other
6 organization in which each such office of the person was held or in which each
7 such occupation or position of employment was carried on;
- 8 (e) Whether the person has been, during the past seven years, the subject of any
9 proceeding for the revocation of any license or any criminal violation and, if
10 so, the nature of the proceeding and the disposition of the proceeding;
- 11 (f) Whether, during the past seven years, the person has been enjoined, either
12 temporarily or permanently, by a court of competent jurisdiction from
13 violating any federal or state law regulating the possession, control, or
14 distribution of prescription drugs or had any criminal violations of such laws,
15 together with details concerning any such event;
- 16 (g) A description of any involvement by the person with any business, including
17 any investments, other than the ownership of stock in a publicly traded
18 company or mutual fund, during the past seven years, which manufactured,
19 administered, prescribed, distributed, or stored pharmaceutical products and
20 any lawsuits in which such businesses were named as a party;
- 21 (h) A description of any misdemeanor or felony criminal offense of which the
22 person, as an adult, was found guilty, regardless of whether adjudication of
23 guilt was withheld or whether the person pled guilty or nolo contendere. If the
24 person indicates that a criminal conviction is under appeal and submits a copy

1 of the notice of appeal of that criminal offense, the applicant shall, within
2 fifteen days after the disposition of the appeal, submit to the board a copy of
3 the final written order of disposition; and

4 (i) A photograph of the person taken in the previous one hundred eighty days.

5 The information required pursuant to this section shall be provided under oath.

6 Section 11. That chapter 36-11A be amended by adding thereto a NEW SECTION to read
7 as follows:

8 The board may not issue a wholesale distributor license to an applicant, unless the board or
9 a nationally recognized accreditation program approved by the board:

10 (1) Conducts a physical inspection of the facility at the address provided by the applicant
11 as required in subdivision (1) of section 10 of this Act; and

12 (2) Determines that the designated representative meets the following qualifications:

13 (a) Is at least twenty-one years of age;

14 (b) Has been employed full time for at least three years in a pharmacy or with a
15 wholesale distributor in a capacity related to the dispensing and distribution
16 of, and recordkeeping relating to, prescription drugs;

17 (c) Is employed by the applicant full time in a managerial level position;

18 (d) Is actively involved in and aware of the actual daily operation of the wholesale
19 distributor;

20 (e) Is physically present at the facility of the applicant during regular business
21 hours, except when the absence of the designated representative is authorized,
22 including sick leave and vacation leave;

23 (f) Is serving in the capacity of a designated representative for only one applicant
24 at a time, except where more than one licensed wholesale distributor is co-

1 located in the same facility and such wholesale distributors are members of an
2 affiliated group, as defined in Section 1504 of the Internal Revenue Code;

3 (g) Does not have any convictions under any federal, state, or local laws relating
4 to wholesale or retail prescription drug distribution or distribution of
5 controlled substances; and

6 (h) Does not have any felony convictions under federal or state laws.

7 Section 12. That chapter 36-11A be amended by adding thereto a NEW SECTION to read
8 as follows:

9 The board may require the applicant to submit the fingerprints provided by a person with
10 a license application for a statewide criminal record check and for forwarding to the Federal
11 Bureau of Investigation for a national criminal record check of the person.

12 Section 13. That chapter 36-11A be amended by adding thereto a NEW SECTION to read
13 as follows:

14 The board shall require every wholesale distributor applying for a license to submit a bond
15 of at least one hundred thousand dollars, or other equivalent means of security acceptable to the
16 board, such as an irrevocable letter of credit or a deposit in a trust account or financial
17 institution, payable to a fund established by the board. The board shall establish a fund, separate
18 from its other accounts, in which to deposit the wholesale distributor bonds. Any chain
19 pharmacy warehouse that is not engaged in wholesale distribution is exempt from the bond
20 requirement. The purpose of the bond is to secure payment of any fines or penalties imposed by
21 the board and any fees and costs incurred by the board regarding that license, which are
22 authorized pursuant to statute and which the licensee fails to pay thirty days after the fines,
23 penalties, or costs become final. The board may make a claim against such bond or security until
24 one year after the licensee's license ceases to be valid. A single bond may suffice to cover all

1 facilities operated by the applicant in the state.

2 If a wholesale distributor distributes prescription drugs from more than one facility, the
3 wholesale distributor shall obtain a license for each facility.

4 Section 14. That chapter 36-11A be amended by adding thereto a NEW SECTION to read
5 as follows:

6 In accordance with each licensure renewal, the board shall send to each wholesale distributor
7 licensed under section 9 of this Act a form setting forth the information that the wholesale
8 distributor provided pursuant to section 10 of this Act. Within thirty days of receiving such
9 form, the wholesale distributor shall identify and state under oath to the board any changes or
10 corrections to the information that was provided pursuant to section 10 of this Act. Changes in,
11 or corrections to, any information in section 10 of this Act shall be submitted to the board as
12 required by such authority. The board may suspend or revoke the license of a wholesale
13 distributor if such authority determines that the wholesale distributor no longer qualifies for the
14 license issued under section 10 of this Act.

15 Section 15. That chapter 36-11A be amended by adding thereto a NEW SECTION to read
16 as follows:

17 The designated representative identified pursuant to subdivision (7) of section 10 of this Act
18 shall receive and complete continuing training in applicable federal and state laws governing
19 wholesale distribution of prescription drugs.

20 The information provided under section 10 of this Act may not be disclosed to any person
21 or entity other than a state board or agency, government board, or government agency,
22 determined to be comparable by the board, provided such licensing authority, government
23 board, or agency needs such information for licensing or monitoring purposes.

24 Section 16. That chapter 36-11A be amended by adding thereto a NEW SECTION to read

1 as follows:

2 A wholesale distributor shall receive prescription drug returns or exchanges from a
3 pharmacy or chain pharmacy warehouse pursuant to the terms and conditions of the agreement
4 between the wholesale distributor and the pharmacy or chain pharmacy warehouse. Returns of
5 expired, damaged, recalled, or otherwise nonsaleable pharmaceutical products shall be
6 distributed by the receiving wholesale distributor only to either the original manufacturer or a
7 third party returns processor. The returns or exchanges of prescription drugs, saleable or
8 otherwise, including any redistribution by a receiving wholesaler, are not subject to the pedigree
9 requirement of section 21 of this Act, so long as they are exempt from pedigree under the
10 Federal Food and Drug Administration's currently applicable Prescription Drug Marketing Act
11 guidance. Wholesale distributors and pharmacies shall be held accountable for administering
12 their returns process and ensuring that the aspects of this operation are secure and do not permit
13 the entry of adulterated and counterfeit product.

14 Section 17. That chapter 36-11A be amended by adding thereto a NEW SECTION to read
15 as follows:

16 A manufacturer or wholesale distributor shall furnish prescription drugs only to a person or
17 entity licensed by the appropriate board. Before furnishing prescription drugs to a person or
18 entity not known to the manufacturer or wholesale distributor, the manufacturer or wholesale
19 distributor shall affirmatively verify that the person or entity is legally authorized to receive the
20 prescription drugs by contacting the appropriate board.

21 Section 18. That chapter 36-11A be amended by adding thereto a NEW SECTION to read
22 as follows:

23 Prescription drugs furnished by a manufacturer or wholesale distributor shall be delivered
24 only to the premises listed on the license. However, the manufacturer or wholesale distributor

1 may furnish prescription drugs to an authorized person or agent of that person at the premises
2 of the manufacturer or wholesale distributor if:

- 3 (1) The identity and authorization of the recipient is properly established; and
- 4 (2) This method of receipt is employed only to meet the immediate needs of a particular
5 patient of the authorized person.

6 Section 19. That chapter 36-11A be amended by adding thereto a NEW SECTION to read
7 as follows:

8 Prescription drugs may be furnished to a hospital pharmacy receiving area provided that a
9 pharmacist or authorized receiving personnel signs, at the time of delivery, a receipt showing
10 the type and quantity of the prescription drug so received. Any discrepancy between receipt and
11 the type and quantity of the prescription drug actually received shall be reported to the
12 delivering manufacturer or wholesale distributor by the next business day after the delivery to
13 the pharmacy receiving area.

14 Section 20. That chapter 36-11A be amended by adding thereto a NEW SECTION to read
15 as follows:

16 A manufacturer or wholesale distributor may not accept payment for, or allow the use of,
17 a person or entity's credit to establish an account for the purchase of prescription drugs from any
18 person other than the owner of record, the chief executive officer, or the chief financial officer
19 listed on the license of a person or entity legally authorized to receive prescription drugs. Any
20 account established for the purchase of prescription drugs must bear the name of the licensee.

21 Section 21. That chapter 36-11A be amended by adding thereto a NEW SECTION to read
22 as follows:

23 Each person who is engaged in wholesale distribution of prescription drugs, including
24 repackagers, but excluding the original manufacturer of the finished form of the prescription

1 drug that leave, or have ever left, the normal distribution channel shall, before each wholesale
2 distribution of such drug, provide a pedigree to the person who receives such drug.

3 A retail pharmacy or chain pharmacy warehouse shall comply with the requirements of this
4 section only if the pharmacy or chain pharmacy warehouse engages in wholesale distribution
5 of prescription drugs, as defined in section 8 of this Act.

6 Section 22. That chapter 36-11A be amended by adding thereto a NEW SECTION to read
7 as follows:

8 The board shall determine by July 1, 2009, a targeted implementation date for electronic
9 track and trace pedigree technology. Such a determination shall be based on consultation with
10 manufacturers, distributors, and pharmacies responsible for the sale and distribution of
11 prescription drug products in this state. After consultation with interested stakeholders and prior
12 to implementation of the electronic pedigree, the board shall determine that the technology is
13 universally available across the entire prescription pharmaceutical supply chain. The
14 implementation date for the mandated electronic track and trace pedigree technology shall be
15 no sooner than July 1, 2010, and may be extended by the board in one year increments if it
16 appears the technology is not universally available across the entire prescription pharmaceutical
17 supply chain.

18 Section 23. That chapter 36-11A be amended by adding thereto a NEW SECTION to read
19 as follows:

20 Each person who is engaged in the wholesale distribution of a prescription drug including
21 repackagers, but excluding the original manufacturer of the finished form of the prescription
22 drug, who is provided a pedigree for a prescription drug and attempts to further distribute that
23 prescription drug, shall affirmatively verify before any distribution of a prescription drug occurs
24 that each transaction listed on the pedigree has occurred.

1 Section 24. That chapter 36-11A be amended by adding thereto a NEW SECTION to read
2 as follows:

3 The pedigree shall include all necessary identifying information concerning each sale in the
4 chain of distribution of the product from the manufacturer, or the manufacturer's third party
5 logistics provider, co-licensed product partner, manufacturer's exclusive distributor, through
6 acquisition and sale by any wholesale distributor or repackager, until final sale to a pharmacy
7 or other person dispensing or administering the drug. At minimum, the necessary chain of
8 distribution information shall include:

- 9 (1) Name, address, telephone number, and if available, the e-mail address, of each owner
10 of the prescription drug, and each wholesale distributor of the prescription drug;
- 11 (2) Name and address of each location from which the product was shipped, if different
12 from the owner's;
- 13 (3) Transaction dates; and
- 14 (4) Certification that each recipient has authenticated the pedigree.

15 Section 25. That chapter 36-11A be amended by adding thereto a NEW SECTION to read
16 as follows:

17 In addition to the requirements of section 24 of this Act, the pedigree shall also include the
18 following minimum requirements:

- 19 (1) Name and national drug code number of the prescription drug;
- 20 (2) Dosage form and strength of the prescription drug;
- 21 (3) Size of the container;
- 22 (4) Number of containers;
- 23 (5) Lot number of the prescription drug; and
- 24 (6) Name of the manufacturer of the finished dosage form.

1 Section 26. That chapter 36-11A be amended by adding thereto a NEW SECTION to read
2 as follows:

3 Each pedigree or electronic file shall be:

- 4 (1) Maintained by the purchaser and the wholesale distributor for three years from the
5 date of sale or transfer; and
- 6 (2) Available for inspection or use within two business days upon a request of an
7 authorized officer of the law.

8 Section 27. That chapter 36-11A be amended by adding thereto a NEW SECTION to read
9 as follows:

10 The board shall issue an order requiring the appropriate person including any distributor or
11 retailer of the drug to immediately cease distribution of the drug within this state if the board
12 finds that there is a reasonable probability that:

- 13 (1) A wholesale distributor, other than a manufacturer, has:
 - 14 (a) Violated a provision of this Act; or
 - 15 (b) Falsified a pedigree, or sold, distributed, transferred, manufactured,
16 repackaged, handled, or held a counterfeit prescription drug intended for
17 human use;
- 18 (2) The prescription drug at issue as a result of a violation in subdivision (1) could cause
19 serious, adverse health consequences or death; and
- 20 (3) Other procedures would result in unreasonable delay.

21 An order under this section shall provide the person subject to the order with an opportunity
22 for an informal hearing, to be held not later than ten days after the date of the issuance of the
23 order, on the actions required by the order. If, after providing an opportunity for such a hearing,
24 the board determines that inadequate grounds exist to support the actions required by the order,

1 the board shall vacate the order.

2 Section 28. That chapter 36-11A be amended by adding thereto a NEW SECTION to read
3 as follows:

4 It is unlawful for a person to perform or cause the performance of or aid and abet any of the
5 following acts in this state:

6 (1) Failure to obtain a license in accordance with this Act, or operating without a valid
7 license when a license is required by this Act;

8 (2) If the requirements of section 16 of this Act are applicable and are not met, the
9 purchasing or otherwise receiving a prescription drug from a pharmacy;

10 (3) If a state license is required pursuant to section 17 of this Act, the sale, distribution,
11 or transfer of a prescription drug to a person that is not authorized under the law of
12 the jurisdiction in which the person receives the prescription drug to receive the
13 prescription drug;

14 (4) Failure to deliver prescription drugs to specified premises, as required by section 18
15 of this Act;

16 (5) Accepting payment or credit for the sale of prescription drugs in violation of section
17 20 of this Act;

18 (6) Failure to maintain or provide pedigrees as required by this Act;

19 (7) Failure to obtain, pass, or authenticate a pedigree, as required by this Act;

20 (8) Providing the state or any of its representatives or any federal official with false or
21 fraudulent records or making false or fraudulent statements regarding any matter
22 within the provisions of this Act;

23 (9) Obtaining or attempting to obtain a prescription drug by fraud, deceit,
24 misrepresentation or engaging in misrepresentation or fraud in the distribution of a

1 prescription drug;

2 (10) Except for the wholesale distribution by manufacturers of a prescription drug that has
3 been delivered into commerce pursuant to an application approved under federal law
4 by the Food and Drug Administration, the manufacture, repacking, sale, transfer,
5 delivery, holding, or offering for sale any prescription drug that is adulterated,
6 misbranded, counterfeit, suspected of being counterfeit, or has otherwise been
7 rendered unfit for distribution;

8 (11) Except for the wholesale distribution by manufacturers of a prescription drug that has
9 been delivered into commerce pursuant to an application approved under Federal law
10 by the Food and Drug Administration, the adulteration, misbranding, or
11 counterfeiting of any prescription drug;

12 (12) The receipt of any prescription drug that is adulterated, misbranded, stolen, obtained
13 by fraud or deceit, counterfeit, or suspected of being counterfeit, and the delivery or
14 proffered delivery of such drug for pay or otherwise; and

15 (13) The alteration, mutilation, destruction, obliteration, or removal of the whole or any
16 part of the labeling of a prescription drug or the commission of any other act with
17 respect to a prescription drug that results in the prescription drug being misbranded.

18 Any person who violates this section is guilty of a Class 1 misdemeanor for the first
19 conviction and a Class 6 felony for any subsequent conviction.

20 Section 29. That § 36-11A-3 be repealed.

21 ~~—36-11A-3. A wholesale drug distributor is any person engaged in the wholesale distribution~~
22 ~~of prescription drugs, including manufacturers; repackagers; own-label distributors; private-~~
23 ~~label distributors; reverse distributors; jobbers; brokers; warehouses, including manufacturers'~~
24 ~~and distributors' warehouses, chain drug warehouses, and wholesale drug warehouses;~~

1 independent wholesale drug traders, and retail and hospital pharmacies that conduct wholesale
2 distributions, including pharmacy distributors. A wholesale drug distributor does not include
3 a common carrier or an individual hired solely to transport prescription drugs.

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

696N0188

SENATE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1176** - 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 Dykstra, Brunner, Cutler, Deadrick, Faehn, Gillespie, Hackl, Halverson, Heineman, Hunt, Krebs, Lust, Novstrup (David), Nygaard, Olson (Russell), Peters, Rave, Rhoden, Sigdestad, Tidemann, Turbiville, and Wick and Senator Dempster

1 FOR AN ACT ENTITLED, An Act to allow for grants from the revolving economic
2 development and initiative fund, to revise certain provisions concerning the making of
3 grants and loans from the revolving economic development and initiative fund, and to repeal
4 the capital investment entity program, the value-added tourism subfund and the entrepreneur
5 support program.

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

7 Section 1. That § 1-16G-3 be amended to read as follows:

8 1-16G-3. There is established in the state treasury a special revenue fund to be known as the
9 revolving economic development and initiative fund for the purpose of making grants and loans
10 for economic development.

11 Section 2. That § 1-16G-5 be amended to read as follows:

12 1-16G-5. ~~Funds used from the revolving economic development and initiative fund shall be~~
13 ~~available for matching on a one-to-one basis pursuant to rules as hereinafter provided. The~~



1 ~~Board of Economic Development may waive the matching requirement by a two-thirds vote of~~
2 ~~the members.~~ Any repayment of loans made and any interest thereon shall be receipted into the
3 revolving economic development and initiative fund and all money in the fund is hereby
4 appropriated for the purposes of making grants and loans as provided in §§ 1-16G-3 to 1-16G-
5 11, inclusive. The Board of Economic Development may promulgate rules pursuant to chapter
6 1-26, to make grants and loans from the revolving economic development and initiative fund,
7 and may establish criteria for the qualification, application, payment, and repayment of funds
8 for such projects.

9 The board may also make loans from the revolving economic development and initiative
10 fund to the South Dakota Economic Development Finance Authority ~~or the export development~~
11 ~~authority, without the matching one-to-one requirement,~~ for the purposes of assisting in the
12 credit enhancement requirements of bond issues, notes, loan guarantees and bond insurance.
13 Any excess in the capital reserve fund of the economic development finance authority ~~or export~~
14 ~~development authority,~~ on June thirtieth of each year, shall revert to the revolving economic
15 development and initiative fund for the purposes of principal and interest reduction.

16 Section 3. That § 1-16G-8 be amended to read as follows:

17 1-16G-8. The Board of Economic Development shall promulgate rules concerning, ~~but not~~
18 ~~limited to,~~ the following:

- 19 (1) The existing barriers to economic growth and development in the state;
- 20 (2) Developing investment in research and development in high technology industries;
- 21 (3) The submission of business plans prior to the approval of economic development
22 grants or loans. Business plans shall include the products or services to be offered by
23 the applicant, job descriptions with attendant salary or wage information by job
24 category, educational requirements by job category, methods of accounting, financing

1 other than that provided by the economic development loan, marketing, sales,
2 merchandising and other disciplines proposed to be used for business growth and
3 expansion;

4 (4) The cooperation between agencies of state government and applicant businesses for
5 nonfinancial services including, ~~but not limited to,~~ loan packaging, marketing
6 assistance, research assistance, and to assist those businesses to find solutions for
7 complying with environmental, energy, health, safety, and other federal, state, and
8 local laws and regulation; and

9 (5) Regular performance monitoring and reporting systems for participating businesses
10 to assure compliance with their business plans and terms of repayment;

11 (6) Establish eligibility criteria for grants and loans;

12 (7) Establish application procedures for grants and loans;

13 (8) Establish criteria to determine which applicants will receive grants or loans;

14 (9) Govern the use of proceeds of grants and loans;

15 (10) Establish criteria for the terms and conditions upon which loans shall be made,
16 including matching requirements, interest rates, repayment terms, and the terms of
17 security given to secure such loans; and

18 (11) Establish criteria for the terms and conditions upon which grants shall be made,
19 including permitted uses, performance criteria, and matching requirements.

20 Section 4. That § 1-16G-8.1 be repealed.

21 ~~—1-16G-8.1. For the purposes of §§ 1-16G-8.1 to 1-16G-8.3, inclusive, the term, capital~~
22 ~~investment entity, means a for-profit or non-profit investment entity or vehicle that intends to~~
23 ~~invest as an owner in businesses for the purpose of achieving return on investment through~~
24 ~~royalties, profit, growth, or otherwise.~~

1 Section 5. That § 1-16G-8.2 be repealed.

2 ~~1-16G-8.2. In addition to the loans authorized in §§ 1-16G-5 and 1-16G-8, the Board of~~
3 ~~Economic Development may make loans from the revolving economic development and~~
4 ~~initiative fund to capital investment entities. The loans shall be for the purpose of facilitating~~
5 ~~investment by capital investment entities in new businesses in this state and to facilitate the~~
6 ~~expansion or relocation of businesses in this state in order to promote economic development~~
7 ~~in this state. The total amount of such loans may not exceed twelve million dollars.~~

8 Section 6. That § 1-16G-8.3 be repealed.

9 ~~1-16G-8.3. The Board of Economic Development may promulgate, pursuant to chapter 1-26,~~
10 ~~rules to:~~

- 11 ~~(1) Establish eligibility criteria;~~
- 12 ~~(2) Set the application procedures for loans to capital investment entities;~~
- 13 ~~(3) Establish criteria to determine which applicants will receive such loans;~~
- 14 ~~(4) Govern the use of proceeds of such loans;~~
- 15 ~~(5) Establish criteria for the terms and conditions upon which such loans shall be made,~~
16 ~~including matching requirements, if any, interest rates, repayment terms, and the~~
17 ~~terms of security given, if any, to secure such loans; and~~
- 18 ~~(6) Establish reporting requirements for capital investment entities.~~

19 Section 7. That § 1-16G-9 be repealed.

20 ~~1-16G-9. The Board of Economic Development may designate "enterprise zones" and may,~~
21 ~~by rule, authorize loan participation of up to seventy-five percent in those enterprise zones. The~~
22 ~~term "enterprise zones" means any area of a first or second class municipality or county which~~
23 ~~has a continuous boundary, is an area of pervasive poverty, unemployment and economic~~
24 ~~distress; is an area in which the average rate of unemployment for the most recent~~

1 ~~eighteen-month period for the area, for which data are available, was at least one and one-half~~
2 ~~times the average national rate of unemployment for such eighteen-month period; is an area in~~
3 ~~which at least seventy percent of the residents living in the area have incomes below seventy~~
4 ~~percent of the median income of the income of the state; is an area in which the population of~~
5 ~~all census tracts in the county decreased by twenty percent or more between the two most recent~~
6 ~~decennial United States' census; and, the first or second class municipality or county in which~~
7 ~~the proposed zone is located establishes that either chronic abandonment or demolition of~~
8 ~~commercial or residential structures exist in the area or that substantial delinquencies relating~~
9 ~~to ad valorem real property taxes of commercial or residential structures exists in the area.~~

10 Section 8. That § 1-16G-10 be amended to read as follows:

11 1-16G-10. The Board of Economic Development shall prepare an annual report by the first
12 day of ~~October~~ November of each year detailing the activities of the board and the terms and
13 conditions of any grants and loans made, including the current status of outstanding loans.

14 Section 9. That § 1-16G-11 be amended to read as follows:

15 1-16G-11. Any documentary material or data made or received by the Board of Economic
16 Development or Governor's Office of Economic Development for the purpose of furnishing
17 assistance to a business, to the extent that such material or data consists of trade secrets or
18 commercial or financial information regarding the operation of such business, ~~may not be~~
19 ~~considered public records~~ is not a public record, and is exempt from disclosure pursuant to the
20 provisions of §§ 1-16G-3 to 1-16G-11, inclusive. Any discussion, consideration of, or action
21 upon such trade secrets or commercial or financial information by the Board of Economic
22 Development ~~may~~ shall be done in executive session closed to the public, notwithstanding the
23 provisions of the open meeting laws of this state.

24 Section 10. That § 1-16G-24 be amended to read as follows:

1 1-16G-24. Earnings on the revolving economic development and initiative fund, ~~the South~~
2 ~~Dakota entrepreneur program, the value added tourism subfund,~~ and the value added agriculture
3 subfund may be used for the administrative costs of the Division of Finance of the Governor's
4 Office of Economic Development. Such earnings shall be expended in accordance with the
5 provisions of Title 4 on warrants drawn by the state auditor on vouchers approved by the
6 secretary of tourism and state development. Eligible expenses may not exceed total interest
7 earnings during the previous fiscal year prior to the deduction of loan losses for the same fiscal
8 year.

9 Section 11. That § 1-16G-29 be repealed.

10 ~~—1-16G-29. There is created within the revolving economic development and initiative fund,~~
11 ~~created in § 1-16G-3, the value added tourism subfund. The purpose of the subfund is to make~~
12 ~~grants or loans for tourism development, feasibility studies, or marketing.~~

13 Section 12. That § 1-16G-30 be repealed.

14 ~~—1-16G-30. For purposes of §§ 1-16G-24 and 1-16G-29 to 1-16G-33, inclusive, the term,~~
15 ~~value added tourism, means the development of new or underused tourism-related activities,~~
16 ~~sites, or destinations that use historical, cultural, scenic, wildlife, or other resources so that new~~
17 ~~tourists or visitors are drawn to South Dakota or so that current classes and types of tourists or~~
18 ~~visitors lengthen their stay in South Dakota or pursue additional activities or destinations during~~
19 ~~their stay.~~

20 Section 13. That § 1-16G-31 be repealed.

21 ~~—1-16G-31. The Board of Economic Development shall designate three million dollars of the~~
22 ~~money in the revolving economic development and initiative fund for the purposes of the value~~
23 ~~added tourism subfund.~~

24 Section 14. That § 1-16G-32 be repealed.

1 ~~— 1-16G-32. The Board of Economic Development shall administer the value added tourism~~
2 ~~subfund and make grants or loans from the value added tourism subfund. The value added~~
3 ~~tourism subfund shall be used to develop and promote value added tourism in South Dakota.~~

4 Section 15. That § 1-16G-33 be repealed.

5 ~~— 1-16G-33. In connection with the administration of the value added tourism subfund, the~~
6 ~~Board of Economic Development may, pursuant to chapter 1-26, promulgate rules to:~~

7 ~~— (1) — Set the application procedures for those who apply for loans or grants from the value~~
8 ~~added tourism subfund;~~

9 ~~— (2) — Establish criteria to determine which applicants will receive such loans or grants;~~

10 ~~— (3) — Govern the use of proceeds of such loans or grants;~~

11 ~~— (4) — Establish criteria for the terms and conditions upon which such loans or grants shall~~
12 ~~be made, including the terms of security given, if any, to secure such loans; and~~

13 ~~— (5) — Govern the use of proceeds by lenders of funds advanced to the lenders by the board~~
14 ~~including the terms and conditions upon which the proceeds shall be loaned to~~
15 ~~borrowers for the purposes described in §§ 1-16G-24 and 1-16G-29 to 1-16G-33,~~
16 ~~inclusive.~~

17 Section 16. That § 1-16G-34 be repealed.

18 ~~— 1-16G-34. There is hereby created within the revolving economic development and initiative~~
19 ~~fund, created in § 1-16G-3, the South Dakota entrepreneur support program. The purpose of the~~
20 ~~program is to make loans to South Dakota entrepreneurs and South Dakota start-up businesses~~
21 ~~to develop and promote new business activity and to create employment in the state.~~

22 Section 17. That § 1-16G-35 be repealed.

23 ~~— 1-16G-35. For purposes of §§ 1-16G-34 to 1-16G-39, inclusive, the term, start-up business,~~
24 ~~means any new business venture in the technology, communications, service, or manufacturing~~

1 sector:

2 Section 18. That § 1-16G-36 be repealed.

3 ~~—1-16G-36. The Board of Economic Development shall designate up to three million dollars~~
4 ~~of the money in the revolving economic development and initiative fund for the purposes of the~~
5 ~~South Dakota entrepreneur support program.~~

6 Section 19. That § 1-16G-37 be repealed.

7 ~~—1-16G-37. The Board of Economic Development shall administer the South Dakota~~
8 ~~entrepreneur support program and make loans under the following terms:~~

9 ~~—(1)— No loan may be for less than thirty thousand dollars or for more than fifty thousand~~
10 ~~dollars;~~

11 ~~—(2)— Each loan applicant shall provide for a matching amount of funds available from~~
12 ~~non-state sources equal to the amount of the loan. No in-kind amounts or services~~
13 ~~may be included in the matching funds; and~~

14 ~~—(3)— Each loan may be made on an unsecured basis unless security is available. The loan~~
15 ~~shall be set up for repayment of the principal plus accrued interest beginning on the~~
16 ~~third anniversary date of the loan approval date with a balloon payment after the~~
17 ~~seventh anniversary of the loan anniversary date. However, the board may grant a~~
18 ~~further two-year extension before repayment begins.~~

19 Section 20. That § 1-16G-38 be repealed.

20 ~~—1-16G-38. An applicant for a loan pursuant to §§ 1-16G-34 to 1-16G-39, inclusive, shall~~
21 ~~meet the following criteria:~~

22 ~~—(1)— An innovative business concept with a reasonable probability of creating a new~~
23 ~~market or filling an existing market need;~~

24 ~~—(2)— A three-year strategic plan for developing the business, creating jobs, and sourcing~~

1 ~~qualified employees to execute the plan with sufficient justification to support the~~
2 ~~amount of the request; and~~

3 ~~—(3)—Demonstrable support from economic development and academic professionals or~~
4 ~~business consultants who can provide advice and guidance to the applicant.~~

5 Section 21. That § 1-16G-39 be repealed.

6 ~~—1-16G-39. In connection with the administration of the South Dakota entrepreneur support~~
7 ~~program, the Board of Economic Development may, pursuant to chapter 1-26, promulgate rules~~
8 ~~to:~~

9 ~~—(1)—Set the application procedures for those who apply for loans from the fund;~~

10 ~~—(2)—Establish criteria to determine how loan funds shall be awarded and distributed to~~
11 ~~applicants;~~

12 ~~—(3)—Govern the use of proceeds of the loans; and~~

13 ~~—(4)—Establish criteria for the terms and conditions upon which the loans shall be made.~~

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

858N0647

SENATE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1249 - 02/26/2007

Introduced by: Representatives Turbiville, Dreyer, Faehn, Gilson, Hills, Krebs, Olson (Ryan), Pitts, Street, and Van Etten and Senators Bartling, Hoerth, Maher, and McCracken

1 FOR AN ACT ENTITLED, An Act to establish the teen court grant program, to require the
2 submission of a report, to provide for its purpose and to declare an emergency.

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

4 Section 1. The teen court grant program is hereby established in the Office of the State
5 Treasurer. The purpose of the grant program is to support the development, growth, quality, and
6 continuation of teen court programs in South Dakota through grants awarded by the South
7 Dakota Teen Court Association.

8 Section 2. There is hereby established in the state treasury the teen court grant program fund
9 to be administered by the Office of the State Treasurer. Money shall enter the fund through
10 contributions, grants, transfers, settlement funds, interest received on moneys in the fund, and
11 any other moneys collected for the purposes of this Act. The state treasurer shall distribute the
12 fund balance quarterly to the South Dakota Teen Court Association for the purpose of
13 administering and funding the grant program.

14 Section 3. The South Dakota Teen Court Association shall award grants to entities within



1 the State of South Dakota that are recognized by the National Youth Court Association. The
2 awards shall be to support the development, growth, quality, and continuation of teen court
3 programs in South Dakota.

4 Section 4. The association shall award grants as provided in this Act and publicize the
5 availability of and procedures for obtaining such grants.

6 Section 5. The Teen Court Association shall submit an annual report to the state treasurer
7 not later than October first of each year. The annual report shall detail the name and location of
8 organizations receiving grant awards. The report shall also contain the amount and duration of
9 such awards, their purpose, and the administrative costs associated with such awards.

10 Section 6. On June 26, 2007, the state treasurer shall transfer one hundred thousand dollars
11 (\$100,000) from the energy development impact fund created in § 10-39A-8.1 to the teen court
12 grant program fund created in section 2 of this Act.

13 Section 7. The state treasurer shall approve vouchers and the state auditor shall draw
14 warrants to pay expenditures authorized in this Act.

15 Section 8. Whereas, this Act is necessary for the support of the state government and its
16 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in
17 full force and effect from and after its passage and approval.

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

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

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

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

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

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

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



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

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

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

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

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

707N0028

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **SB 2** - 02/21/2007

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

1 FOR AN ACT ENTITLED, An Act to establish certain procedures regarding the verification
2 of initiative and referendum signatures.

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

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

6 Upon the receiving of any initiative petition, referred law petition, or initiated constitutional
7 amendment petition, the secretary of state shall examine the petition. No signature of a person
8 may be counted by the secretary of state unless the person is a registered voter in the county
9 indicated on the signature line. No signature of a person may be counted if the information
10 required on the petition form is not complete.

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

13 The secretary of state shall verify the signatures pursuant to section 1 of this Act by random
14 sampling. The random sample of signatures to be verified shall be drawn so that every signature



1 received by the secretary of state shall be given an equal opportunity to be included in the
2 sample. The secretary of state shall calculate the number of valid signatures by multiplying the
3 total number of signatures received by the percentage of successfully verified signatures from
4 the random sample. The secretary of state shall, by rules promulgated pursuant to chapter 1-26,
5 establish the methodology for conducting the random sample. The random sampling shall be
6 an examination of five percent of the signatures received.

7 Section 3. That chapter 2-1 be amended by adding thereto a NEW SECTION to read as
8 follows:

9 If the random sample indicates that a sufficient number of qualified electors have signed the
10 petition, the secretary of state shall certify that the petition has been signed by the required
11 number of qualified electors and shall place the proposed measure or amendment on the next
12 general election ballot. If the random sample indicates that an insufficient number of qualified
13 electors have signed the petition, the secretary of state shall certify that the petition has not been
14 signed by the required number of qualified electors and may not place the proposed measure or
15 amendment on the next general election ballot. The secretary of state shall, within five days of
16 certifying, notify the petition sponsors of the secretary of state's action pursuant to this section.

17 Section 4. That chapter 2-1 be amended by adding thereto a NEW SECTION to read as
18 follows:

19 Nothing in this Act prohibits any person from challenging in circuit court the validity of
20 signatures or other information required on a petition by statute or administrative rule.

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

625N0491

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

SB 159 - 02/21/2007

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

Introduced by: Senators Gray, Garnos, and Turbak and Representatives Faehn, Lust, Street, Thompson, and Willadsen

1 FOR AN ACT ENTITLED, An Act to allow a taxpayer who is the subject of an audit to provide
2 certain pertinent papers and documents after the prescribed deadline under limited
3 circumstances.

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

5 Section 1. That § 10-59-7 be amended to read as follows:

6 10-59-7. The secretary may perform audits of the books and records of any person subject
7 to tax in the chapters set out in § 10-59-1. Unless the secretary determines that delay may
8 jeopardize the collection of a tax, the secretary shall mail a notice of intent to audit at least thirty
9 days before commencement of the audit to the person to be audited. The thirty-day period may
10 be waived by mutual consent of both parties. Any documents or records required to be kept by
11 law to evidence reduction, deduction, or exemption from tax not prepared for presentation to
12 the auditor within sixty days from the commencement date of the audit do not have to be
13 considered by the auditor or the secretary. However, additional pertinent papers or documents
14 shall be considered if all the following apply:



- 1 (1) The additional pertinent papers or documents are material;
- 2 (2) There were good reasons for failure to present other pertinent papers or documents
3 as referenced in § 10-45-45 or 10-46-43, within the prescribed time period; and
- 4 (3) The additional pertinent papers or documents are submitted within a reasonable time
5 period prior to any hearing scheduled pursuant to § 10-59-9.

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

398N0607

HOUSE ENGROSSED NO. **SB 195** - 02/26/2007

Introduced by: Senators Garnos, Gray, McNenny, Nesselhuf, and Peterson (Jim) and
Representatives Wick, Elliott, Hills, Olson (Ryan), and Thompson

1 FOR AN ACT ENTITLED, An Act to allow member schools of the South Dakota High School
2 Activities Association to provide a portion of certain admissions fees to local organizations
3 that support interscholastic activities.

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

5 Section 1. That chapter 13-16 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 Any member school of an association provided for in § 13-36-4 to which control,
8 supervision, and regulation of high school interscholastic activities has been delegated, may,
9 during each school year, allow any portion of the admissions fees collected at a single event in
10 each activity recognized by the association to be used by a local organization that supports local
11 interscholastic activities. The portion of the admissions fees provided to the local organization
12 shall be used for a purpose that is approved in advance by the local school board, and may be
13 used for a local endowment fund that is dedicated to assisting the local school district with its
14 educational needs. The local organization shall maintain complete records of the admissions
15 fees it receives, and shall provide a report to the local school board detailing the specific use of



1 the admissions fees.