

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

695N0041 SENATE EDUCATION COMMITTEE ENGROSSED NO.
HB 1082 - 02/27/2007

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

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

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

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

9 Section 2. That § 13-6-92 be amended to read as follows:

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



1 district is entitled to an additional ~~two~~ four hundred dollars per ~~average daily membership as~~
2 ~~defined in § 13-13-10.1~~ fall enrollment as defined in this Act, up to a maximum of four hundred
3 ~~average daily membership~~ fall enrollment from each school district or a prorated portion thereof
4 from a partial school district as it existed prior to consolidation for the second year after
5 consolidation. If two or more school districts consolidate ~~after July 1, 2001~~, the new school
6 district is entitled to an additional ~~one~~ two hundred dollars per ~~average daily membership as~~
7 ~~defined in § 13-13-10.1~~ fall enrollment as defined in this Act, up to a maximum of four hundred
8 ~~average daily membership~~ fall enrollment from each school district or a prorated portion thereof
9 from a partial school district as it existed prior to consolidation for the third year after
10 consolidation.

11 Section 3. That chapter 13-13 be amended by adding thereto a NEW SECTION to read as
12 follows:

13 The consolidation incentives provided for in §§ 13-13-1.4 to 13-13-1.7, inclusive, apply only
14 to those school districts whose consolidations are completed prior to July 1, 2007.

15 Section 4. That § 13-13-1.4 be amended to read as follows:

16 13-13-1.4. If two or more school districts consolidate, for a period of four years after
17 consolidation, the ~~adjusted average daily membership~~ local need for the newly formed district
18 shall be based upon the ~~average daily membership as defined in § 13-13-10.1~~ fall enrollment
19 as defined in this Act of those school districts that have not previously benefited from this
20 section as they existed prior to consolidation. In years two to four, inclusive, after the
21 consolidation, the relationship between the ~~adjusted average daily membership~~ local need and
22 ~~average daily membership~~ fall enrollment shall be proportional to the relationship that existed
23 for the first year.

24 Section 5. That § 13-13-1.5 be amended to read as follows:

1 13-13-1.5. In years five to eight, inclusive, after the consolidation of two or more school
2 districts, the ~~adjusted average daily membership~~ local need for the newly formed district shall
3 be calculated as follows:

- 4 (1) Calculate ~~adjusted average daily membership~~ local need pursuant to ~~§ 13-13-10.1~~
5 § 13-13-73;
- 6 (2) Notwithstanding the four-year time limit, calculate ~~adjusted average daily~~
7 ~~membership~~ local need pursuant to § 13-13-1.4;
- 8 (3) Subtract the results of subdivision (1) from the results of subdivision (2);
- 9 (4) Multiply the results of subdivision (3) by eighty percent in the fifth year, sixty
10 percent in the sixth year, forty percent in the seventh year, and twenty percent in the
11 eighth year;
- 12 (5) Add the results of subdivision (1) and the results of subdivision (4).

13 Section 6. That § 13-13-10.1 be amended to read as follows:

14 13-13-10.1. Terms used in this chapter mean:

- 15 (1) ~~"Average daily membership," the average number of resident and nonresident~~
16 ~~kindergarten through twelfth grade pupils enrolled in all schools operated by the~~
17 ~~school district during the previous regular school year, minus average number of~~
18 ~~pupils for whom the district receives tuition, except pupils described in subdivision~~
19 ~~(1A) and pupils for whom tuition is being paid pursuant to § 13-28-42 and plus the~~
20 ~~average number of pupils for whom the district pays tuition;~~

21 ~~—(1A) Nonresident students who are in the care and custody of the Department of Social~~
22 ~~Services, the Unified Judicial System, the Department of Corrections, or other state~~
23 ~~agencies and are attending a public school may be included in the average daily~~
24 ~~membership of the receiving district when enrolled in the receiving district. When~~

1 counting a student who meets these criteria in its general enrollment average daily
2 membership, the receiving district may begin the enrollment on the first day of
3 attendance. The district of residence prior to the custodial transfer may not include
4 students who meet these criteria in its general enrollment average daily membership
5 after the student ceases to attend school in the resident district;

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

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

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

12 ~~(c) For districts with an average daily membership of six hundred or more,~~
13 ~~multiply 1.0 times their average daily membership~~ "Fall enrollment," the
14 number of kindergarten through twelfth grade students enrolled in all schools
15 operated by the school district on the last Friday of September of the previous
16 school year minus the number of students for whom the district receives
17 tuition, except nonresident students who are in the care and custody of a state
18 agency and are attending a public school and students for whom tuition is
19 being paid pursuant to § 13-28-42.1, plus the number of students for whom the
20 district pays tuition. No student who is partially enrolled in a school may be
21 counted in the fall enrollment for that school unless the partial enrollment
22 exceeds fifty percent. When computing state aid to education for a school
23 district under the foundation program pursuant to § 13-13-73, the secretary of
24 the Department of Education shall use either the school district's fall

1 enrollment or the average of the school district's fall enrollment and the school
2 district's fall enrollment from the prior year, whichever is higher;

3 (1A) "Current fall enrollment," the number of kindergarten through twelfth grade students
4 enrolled in all schools operated by the school district on the last Friday of September
5 of the current school year minus the number of students for whom the district
6 receives tuition except nonresident students who are in the care and custody of a state
7 agency and are attending a public school and students for whom tuition is being paid
8 pursuant to § 13-28-42.1, plus the number of students for whom the district pays
9 tuition. No student who is partially enrolled in a school may be counted in the current
10 fall enrollment for that school unless the partial enrollment exceeds fifty percent;

11 (2) "Small school adjustment," calculated as follows:

12 (a) For districts with a fall enrollment of two hundred or less, multiply 0.2 times
13 the fall enrollment and multiply the product times the per student allocation;

14 (b) For districts with a fall enrollment of greater than two hundred, but less than
15 six hundred, multiply the fall enrollment times negative 0.0005; add 0.3 to that
16 result; and multiply the sum obtained times the per student allocation;

17 (3) "Index factor," is the annual percentage change in the consumer price index for urban
18 wage earners and clerical workers as computed by the Bureau of Labor Statistics of
19 the United States Department of Labor for the year before the year immediately
20 preceding the year of adjustment or three percent, whichever is less;

21 (4) "Per student allocation," for school fiscal year 2006 is \$4,237.72. Each school fiscal
22 year thereafter, the per student allocation is the previous fiscal year's per student
23 allocation increased by the index factor;

24 (5) "Local need," ~~the~~ is the sum of:

1 (a) The per student allocation multiplied by the ~~adjusted average daily~~
2 membership fall enrollment; and

3 (b) The small school adjustment or the sparsity small school adjustment, if
4 applicable, multiplied by the fall enrollment;

5 (6) "Local effort," the amount of ad valorem taxes generated in a school fiscal year by
6 applying the levies established pursuant to § 10-12-42;

7 (7) "General fund balance," the unreserved fund balance of the general fund, less general
8 fund exclusions plus, beginning with transfers made in fiscal year 2001, any transfers
9 out of the general fund for the previous school fiscal year;

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

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

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

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

17 For fiscal year 2008, the maximum allowable percentage is one hundred percent; for
18 fiscal year 2009, eighty percent; for fiscal year 2010, sixty percent; for fiscal year
19 2011, forty percent; for fiscal year 2012 and subsequent fiscal years, twenty-five
20 percent. However, the general fund base percentage can never increase and can never
21 be less than ~~twenty~~ twenty-five percent;

22 (10) "Allowable general fund balance," the general fund base percentage multiplied by the
23 district's general fund expenditures in the previous school fiscal year;

24 (11) "~~Imputed interest rate,~~" the average prime rate for the preceding fiscal year minus 2.5

1 percentage points;

2 ~~—(12)—~~ "General fund exclusions," revenue a school district has received from the imposition
3 of the excess tax levy pursuant to § 10-12-43; revenue a school district has received
4 from gifts, contributions, grants, or donations; revenue a school district has received
5 under the provisions of §§ 13-6-92 to 13-6-96, revenue a school district has received
6 as compensation for being a sparse school district under the terms of §§ 13-13-78 and
7 13-13-79, inclusive; and any revenue in the general fund set aside for a noninsurable
8 judgment.

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

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

16 Section 8. That § 13-13-73 be amended to read as follows:

17 13-13-73. The secretary of the Department of Education shall compute state aid to education
18 for each school district under the foundation program according to the following calculations:

19 (1) Determine each school district's ~~average daily membership~~ fall enrollment;

20 (2) To arrive at the local need per district:

21 (a) Multiply the per student allocation by the adjusted average daily membership
22 to arrive at the local need per district fall enrollment;

23 (b) Multiply the small school adjustment if applicable, by the fall enrollment; and

24 (c) Add the product of subsection (a) to the product of subsection (b);

- 1 (3) State aid is (a) local need minus local effort, or (b) zero if the calculation in (a) is a
- 2 negative number;
- 3 (4) If the state aid appropriation for the general support of education is in excess of the
- 4 entitlement provided for in this section, the excess shall be used to fund any shortfall
- 5 of the appropriation as provided for in §§ 13-37-36.3 and 13-37-43. The secretary
- 6 shall report to the Governor by January seventh of each year, the amount of state aid
- 7 necessary to fully fund the general aid formula in the current year. If a shortfall in the
- 8 state aid appropriation for general education exists that cannot be covered by § 13-
- 9 37-45, the Governor shall inform the Legislature and provide a proposal to eliminate
- 10 the shortfall.

11 Section 9. That § 13-13-73.2 be amended to read as follows:

12 13-13-73.2. A school district's state aid for general education as calculated pursuant to § 13-

13 13-73 shall be reduced by ~~the following calculation:~~

- 14 ~~(1) Subtract the allowable general fund balance from the general fund balance. If the~~
- 15 ~~result is less than zero, (1) equals zero;~~
- 16 ~~(2) Determine the lower of the general fund base percentage or the general fund balance~~
- 17 ~~percentage;~~
- 18 ~~(3) Subtract twenty percent (0.2) from the result of (2). If the result is less than zero, (3)~~
- 19 ~~equals zero;~~
- 20 ~~(4) Multiply the result of (3) by the district's general fund expenditures in the previous~~
- 21 ~~school fiscal year;~~
- 22 ~~(5) Multiply the result of (4) by the imputed interest rate;~~
- 23 (6) Add the result of (1) and the result of (5) the amount calculated by subtracting the
- 24 allowable general fund balance from the general fund balance. If the result is less

1 than zero, the result equals zero.

2 Section 10. That § 13-13-73.3 be amended to read as follows:

3 13-13-73.3. The secretary of education shall determine the reduction in state aid to education
4 pursuant to § 13-13-73.2. The secretary of education shall distribute the amount of money so
5 determined to school districts that received state aid pursuant to chapter 13-13 on a pro rata
6 basis according to the district's ~~average daily membership~~ fall enrollment compared to the total
7 ~~average daily membership~~ fall enrollment of all districts eligible for this distribution.

8 Section 11. That § 13-13-78 be amended to read as follows:

9 13-13-78. Terms used in § 13-13-79 mean:

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

1 hundred thirty-two, is calculated as follows:

2 (a) ~~For sparse school districts with an adjusted average daily membership as~~
3 ~~defined in subdivision 13-13-10.1(2) of less than one hundred or greater than~~
4 ~~two hundred seventy-five, divide the average daily membership as defined in~~
5 ~~subdivision 13-13-10.1(1) Divide the fall enrollment as defined in this Act by~~
6 ~~the area of the school district in square miles;~~

7 (b) Multiply the quotient obtained in subsection (a) times negative 0.125;

8 (c) Add 0.0625 to the product obtained in subsection (b); and

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

11 (3) "Sparsity adjusted ~~average daily membership~~ fall enrollment," calculated as follows:

12 ~~For any sparse school district with an adjusted average daily membership as defined~~
13 ~~in subdivision 13-13-10.1(2) of no less than one hundred, but no more than two~~
14 ~~hundred seventy-five, the sparsity adjusted average daily membership is two hundred~~
15 ~~seventy-five~~ for sparse school districts with a fall enrollment as defined in this Act
16 of at least eighty-three, but no more than two hundred thirty-two, subtract the fall
17 enrollment from two hundred thirty-two.

18 Section 12. That § 13-13-79 be amended to read as follows:

19 13-13-79. At the same time that foundation program state aid is distributed to school
20 districts pursuant to §§ 13-13-10.1 to 13-13-41, inclusive, the secretary of the Department of
21 Education shall distribute funds to sparse school districts by multiplying ~~either the sparsity~~
22 ~~average daily membership calculation or the sparsity adjusted average daily membership~~
23 ~~calculation in § 13-13-78~~ the result of the calculation in either subdivision 13-13-78(2) or
24 subdivision 13-13-78(3) by the per student allocation as defined in § 13-13-10.1. However, no

1 sparse school district may receive a sparsity benefit in any year that exceeds ~~two hundred fifty~~
2 one hundred seventy-five thousand dollars.

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

4 13-13-1.2. Any records related to the reporting of ~~average daily membership~~ fall enrollment
5 of a public school district shall be subject to examination by the Department of Education at all
6 times.

7 Section 14. That § 13-13-1.3 be amended to read as follows:

8 13-13-1.3. If, in the department's examination of ~~average daily membership~~ fall enrollment,
9 it is determined that the data was overreported, the department shall recover the amount of state
10 aid overpaid as a result of the overreporting. Upon recovery of the overpayment, the department
11 shall deposit the overpayment into the state general fund. If the overreporting occurred with the
12 intent to increase the amount of state aid received by overreporting, the individual person
13 responsible for the overreporting may be charged with a Class 1 misdemeanor as provided in
14 § 13-8-44, with the maximum penalty as defined in § 22-6-2.

15 Section 15. That § 13-13-1.8 be amended to read as follows:

16 13-13-1.8. ~~Students~~ No student attending the Black Hills Forest High School in Lawrence
17 County may ~~not~~ be included by any school district in its ~~average daily membership~~ fall
18 enrollment for purposes of state aid to education.

19 Section 16. That § 13-15-28 be amended to read as follows:

20 13-15-28. Any school district that enters into contractual agreements pursuant to § 13-15-11
21 and sends over fifty percent of its resident students enrolled in grades for which it contracts to
22 an adjoining school district or districts located in South Dakota shall reorganize the school
23 district pursuant to chapter 13-6 within two years of the end of the school year. For the purposes
24 of this section, the number of students attending adjoining districts shall be based on ~~average~~

1 ~~daily membership pursuant to subdivision 13-13-10.1(1)~~ fall enrollment as defined in this Act.

2 This section does not apply to a school district located wholly within the boundaries of an Indian
3 reservation.

4 Section 17. That § 13-28-40 be amended to read as follows:

5 13-28-40. An enrollment options program is established to enable any South Dakota
6 kindergarten through twelfth grade student to attend any public school that serves the student's
7 grade level in any South Dakota school district, subject to the provisions in §§ 13-28-40 to 13-
8 28-47, inclusive. For purposes of determining state aid to education as it relates to the provisions
9 of §§ 13-28-40 to 13-28-47, inclusive, ~~average daily membership as defined in § 13-13-10.1~~
10 fall enrollment as defined in this Act is used to compute foundation aid and special education
11 average daily membership as defined in § 13-37-35 is used to determine funding for special
12 education.

13 Section 18. That § 13-28-49 be amended to read as follows:

14 13-28-49. Notwithstanding the provisions of § 13-28-40, any student who enrolls in another
15 school district pursuant to the provisions contained in §§ 13-28-40 to 13-28-47, inclusive, from
16 a district that does not receive state aid pursuant to chapter 13-13 in the succeeding fiscal year
17 remains the financial obligation of the resident district. For each student, the resident district
18 shall pay tuition to the nonresident district in the succeeding fiscal year per the following
19 calculation:

- 20 (1) ~~Multiply~~ Determine the nonresident district's ~~adjusted average daily membership~~
21 ~~calculated pursuant to subdivision 13-13-10.1(2)~~ by the per student allocation as
22 ~~defined in subdivision 13-13-10.1(4)~~ local need pursuant to subdivision 13-13-73(2);
- 23 (2) Divide the result of (1) by the nonresident district's ~~average daily membership~~
24 ~~calculated pursuant to subdivision 13-13-10.1(1)~~ fall enrollment as defined in this

1 Act;

2 (3) Multiply the result of (2) by the number of days the student was enrolled in the
3 nonresident district;

4 (4) Divide the result of (3) by the number of days the nonresident district was in session.

5 Section 19. That § 13-28A-7 be amended to read as follows:

6 13-28A-7. For the purposes of state aid to education distributed pursuant to chapter 13-13,
7 any student sent to South Dakota from North Dakota is included in the receiving school district's
8 ~~average daily membership~~ fall enrollment.

9 Section 20. That § 13-28A-8 be amended to read as follows:

10 13-28A-8. For the purposes of state aid to education distributed pursuant to chapter 13-13,
11 any student sent to North Dakota from South Dakota may not be included in the resident school
12 district's ~~average daily membership~~ fall enrollment.

13 Section 21. That § 12-25-6.1 be amended to read as follows:

14 12-25-6.1. The provisions of this chapter, except §§ 12-25-27 to 12-25-31, inclusive, do not
15 apply to any candidate or candidate election for judicial, municipal, or other governmental
16 subdivision offices. However, the governing body of any municipality or other governmental
17 subdivision may adopt an ordinance or resolution to make the provisions of chapter 12-25, with
18 or without amendments, applicable to municipal or other governmental subdivision elections.
19 The provisions of this chapter do apply to any candidate or candidate election for any county
20 office or school board seat in a district with ~~an average daily membership~~ a fall enrollment in
21 excess of two thousand students during the previous academic year.

22 Section 22. That § 42-7B-48.1 be amended to read as follows:

23 42-7B-48.1. Disbursements from the Gaming Commission fund shall be as set forth in § 42-
24 7B-48 until such time as the net municipal proceeds paid to the City of Deadwood equals six

1 million eight hundred thousand dollars for each year, and after payment of commission expenses
2 pursuant to subdivision 42-7B-48(2), and after payment of one hundred thousand dollars to the
3 State Historical Preservation Grant and Loan fund pursuant to subdivision 42-7B-48(4).

4 Thereafter, all remaining funds shall be distributed as follows:

- 5 (1) Seventy percent to the state general fund;
- 6 (2) Ten percent to be distributed to municipalities in Lawrence County, except the City
7 of Deadwood, pro rata according to their population;
- 8 (3) Ten percent to be distributed to school districts, pro rata based upon the previous
9 year's ~~average daily membership~~ fall enrollment, located in whole or in part, in
10 Lawrence County. For any school district located only partly in Lawrence County,
11 only that portion of the district's ~~average daily attendance~~ fall enrollment which
12 represents students residing in Lawrence County shall be considered in calculating
13 the proration required by this subdivision; and
- 14 (4) Ten percent to the City of Deadwood for deposit in the historic restoration and
15 preservation fund.

16 Section 23. That § 13-16-26 be amended to read as follows:

17 13-16-26. All or any part of a surplus of any school district fund, except the capital outlay
18 fund provided by §§ 13-16-6 to 13-16-9, inclusive, and the special education fund provided by
19 § 13-37-16 may be transferred to any other school district fund. ~~However, any~~ Only a school
20 district with a plan for reorganization that has been approved by the voters pursuant to § 13-6-47
21 may transfer all or any part of a surplus in the capital outlay fund to the general fund. Any
22 unused portion of money that has been transferred into the special education fund may be
23 transferred from the special education fund within the current fiscal year to the fund from which
24 it originated. All or any part of any school district fund may be loaned to any other school

1 district fund for a term not to exceed twenty-four months.

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

914N0392

SENATE APPROPRIATIONS COMMITTEE

ENGROSSED NO. **HB 1101** - 02/27/2007

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

Introduced by: Representatives Juhnke, Deadrick, and Putnam and Senator Garnos

1 FOR AN ACT ENTITLED, An Act to make an appropriation for maintenance and repair
2 projects of the Board of Regents deemed critical to facility safety and function.

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

4 Section 1. It is in the public interest that the South Dakota Building Authority contract for
5 the construction, completion, furnishing, equipping, and maintaining of, including heating, air
6 conditioning, plumbing, water, sewer, electric facilities, sidewalks, parking, landscaping,
7 architectural and engineering services, asbestos abatement, removal of existing roofing and
8 structures, and such other services or actions as may be required to complete maintenance and
9 repair projects selected by the Board of Regents as critical to facility safety and function at
10 academic and support facilities on the university campuses, all at the estimated cost of eight
11 million six hundred thousand dollars (\$8,600,000). The South Dakota Building Authority may
12 finance the project costs, together with any related costs of financing, through the issuance of
13 revenue bonds, in accordance with this Act and chapter 5-12.

14 Section 2. The Board of Regents may make and enter into a lease agreement with the
15 Building Authority relating to any projects described in section 1 of this Act and make rental



1 payments under the terms thereof pursuant to chapter 5-12 from appropriations to be made by
2 the Legislature pursuant to chapter 5-12. In addition, the Board of Regents may assess and
3 collect special maintenance and repair fees from students and use such fees to pay or supplement
4 any rental payments, or reduce the amount of appropriations otherwise required, for such rental
5 payments. Such fees shall be deposited in a special fund established for the purposes of this Act
6 and used to reduce the amount of appropriations required to pay rentals under the lease with the
7 Building Authority. Upon receipt of payment of the balance of rental payments made under the
8 terms of any lease entered into pursuant to section 2 of this Act, the Building Authority shall
9 convey the property leased under the lease to the Board of Regents pursuant to § 5-12-15.

10 Section 3. No indebtedness, bond, or obligation included or created under the authority of
11 this Act may be or may become a lien, charge, or liability against the State of South Dakota, nor
12 against the property or funds of the State of South Dakota within the meaning of the
13 Constitution or statutes of the state.

14 Section 4. The Building Authority and the Board of Regents may accept, transfer, and
15 expend any property or funds obtained for these purposes from federal sources, gifts,
16 contributions, or any other source, all of which shall be deemed appropriated to the projects
17 authorized by this Act in addition to the amounts otherwise authorized by this Act.

18 Section 5. The administration of the design and construction of the projects authorized in
19 this Act shall be under the general charge and supervision of the Bureau of Administration as
20 provided in chapter 5-14. The executive director of the Board of Regents and the executive
21 secretary of the Building Authority, or their designees, shall approve vouchers and the state
22 auditor shall draw warrants to pay expenditures authorized by this Act.

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

562N0622

HOUSE ENGROSSED NO. **HB 1162** - 02/14/2007

Introduced by: Representatives Cutler, Engels, Hunt, Juhnke, Rounds, Turbiville, Wick, and Willadsen and Senators Gant, Dempster, Gray, Kloucek, and Koetzle

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to the sales and
2 distribution of tobacco products.

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

4 Section 1. That § 34-46-2 be amended to read as follows:

5 34-46-2. The following actions are unlawful:

- 6 (1) To knowingly sell or distribute a tobacco product to a person under the age of
7 eighteen;
- 8 (2) To purchase or attempt to purchase, to receive or attempt to receive, to possess, or
9 to consume a tobacco product if a person is under the age of eighteen;
- 10 (3) To purchase a tobacco product on behalf of, or to give a tobacco product to, any
11 person under the age of eighteen;
- 12 (4) To sell cigarettes other than in an unopened package originating with the
13 manufacturer and depicting the warning labels required by federal law;
- 14 ~~(4)~~(5) To sell tobacco products through a vending machine located in a place other than the
15 following:



- 1 (a) A factory, business, office, or other place not open to the general public;
- 2 (b) A place that is open to the public but to which persons under the age of
- 3 eighteen are denied access; or
- 4 (c) An establishment licensed under chapter 35-4 to sell alcoholic beverages for
- 5 consumption on the premises where sold;
- 6 ~~(5)~~(6) To distribute tobacco product samples in or on a public street, sidewalk, or park that
- 7 is within five hundred feet of a playground, school, or other facility when the facility
- 8 is being used primarily by persons under the age of eighteen.

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

596N0597

SENATE EDUCATION COMMITTEE ENGROSSED NO.

HB 1171 - 02/27/2007

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

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

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

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

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



1 Section 2. Once a school district's initial five-year plan is complete, the school district may
2 reapply for the program. If a school district reapplies and the district's application is denied by
3 the Board of Education due to changes in the program's requirements, that school district is still
4 entitled to receive funding for this program, if the school district continues to follow its original
5 teacher compensation plan that it followed during the initial five years. The funding that school
6 district is entitled to receive during the first year following the denial and in each year thereafter,
7 as long as the school district continues to follow the original teacher compensation plan, shall
8 be calculated as follows:

- 9 (1) Determine the amount received for this program per fall enrollment as defined in
10 subdivision 13-13-10.1(1) in the prior year;
- 11 (2) Increase the amount in (1) by the index factor as defined in subdivision 13-13-
12 10.1(3); and
- 13 (3) Multiply the result in (2) by the fall enrollment.

14 Section 3. The South Dakota Board of Education shall promulgate rules pursuant to chapter
15 1-26 establishing the application process; application timelines; the guidelines for district
16 applications based on school district instructional goals or market compensation; and a system
17 to monitor the progress of participating school districts with their compensation assistance plans
18 and to ensure that each participating school district is complying with the plan as submitted to
19 the board.

20 Section 4. The secretary of the Department of Education shall establish seven education
21 service agencies to provide services and leadership to school districts on a regional basis. Each
22 education service agency shall serve the school districts in a particular region of the state as
23 determined by the secretary of education, and the secretary shall ensure that every school district
24 is served by an education service agency. Each education service agency may be incorporated

1 in the state of South Dakota as a nonprofit corporation organized under chapters 47-22 to 47-28,
2 inclusive, which is exempt from taxation pursuant to 501(a) of the Internal Revenue Code, 26
3 U.S.C. Section 501(a), and may be listed as an exempt organization in Section 501(c) of the
4 Internal Revenue Code, 26 U.S.C. Section 501(c), or an education service agency may be
5 directed by an educational cooperative.

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

- 9 (1) Act primarily as a service agency in providing services and programs as identified
10 and requested by the school districts it serves, including professional development,
11 instructional materials, educational technology, curriculum development, and
12 alternative educational programs;
- 13 (2) Provide for economy, efficiency, and cost effectiveness in the cooperative delivery
14 and purchase or lease of educational services, materials, and products; the services
15 may include purchasing cooperatives, insurance cooperatives, business management
16 services, auditing and accounting services, school safety and risk prevention training,
17 data processing, and assistance with student records;
- 18 (3) Provide administrative services such as communications and public relations
19 services, employee background checks, grants management services, printing and
20 publication services, and internship services;
- 21 (4) Provide educational services through leadership and research and development in
22 elementary and secondary education;
- 23 (5) Work cooperatively with the Department of Education, institutions of higher
24 education, local school districts, and other educational organizations to support,

1 develop, and implement long-range plans and strategic goals for the enhancement of
2 educational opportunities in elementary and secondary education; and

3 (6) Serve, when appropriate and if funds are available, as a repository, clearinghouse,
4 and administrator of federal, state, local, and private funds on behalf of school
5 districts that may participate in special programs, projects, or grants in order to
6 enhance the quality of education in South Dakota schools.

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

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

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

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

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

4 Section 11. The South Dakota Board of Education shall promulgate rules pursuant to chapter
5 1-26 establishing the evaluation process and the criteria and performance measures the
6 department will use to evaluate the education service agencies.

7 Section 12. 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 13. For the fiscal year beginning on July 1, 2007, there is hereby appropriated from
10 the education enhancement tobacco tax fund the sum of nine million dollars (\$9,000,000), or
11 so much thereof as may be necessary, to the Department of Education and shall be distributed
12 as follows:

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

15 (2) One million seven hundred thousand dollars for the education service agencies
16 established in section 4 of this Act;

17 (3) One million five hundred thousand dollars for career and technical education
18 programs;

19 (4) One million eight hundred thousand dollars to apply to any increases in the total cost
20 of foundation program state aid or other educational programs that resulted from
21 legislation enacted during the Eighty-Second Session of the South Dakota Legislature
22 based on the findings of the two-year study of school funding that was undertaken by
23 the Department of Education in 2005; and

24 Section 14. For the fiscal year beginning on July 1, 2008 and for each fiscal year thereafter,

1 the secretary of education shall expend nine million dollars of the monies deposited in the
2 education enhancement tobacco tax fund through the normal budget process as set forth in § 4-

3 7-9. Expenditures from the fund shall support the following education programs:

- 4 (1) The teacher compensation assistance program created in section 3 of this Act;
- 5 (2) The education service agencies established in section 4 of this Act;
- 6 (3) Career and technical education programs; and
- 7 (4) Other education program expenditures as set forth by the Legislature.

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

400N0225

HOUSE APPROPRIATIONS COMMITTEE ENGROSSED

NO. **SB 31** - 02/23/2007

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

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

1 FOR AN ACT ENTITLED, An Act to appropriate money to the Dakota Valley school district.

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 forty-six thousand
4 four hundred twenty dollars (\$46,420) to the Department of Education to pay the Dakota Valley
5 school district for general state aid to education which was not received due to an out of court
6 settlement which resulted in the lowering of the assessed valuation of certain property in Union
7 County after the local effort of the school district had already been calculated by the state.

8 Section 2. There is also hereby appropriated from the general fund the sum of four thousand
9 nine hundred ninety-three dollars (\$4,993) to the Department of Education to pay the Dakota
10 Valley school district for state aid to special education which also was not received due to an
11 out of court settlement which resulted in the lowering of the assessed valuation of certain
12 property in Union County after the local effort of the school district had already been calculated
13 by the state.

14 Section 3. The secretary of the Department of Education shall approve vouchers and the



1 state auditor shall draw warrants to pay expenditures authorized by this Act.

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

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

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

400N0253

HOUSE TAXATION COMMITTEE ENGROSSED NO.

SB 41 - 02/22/2007

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 procedures used to assess and collect unpaid
2 cigarette taxes, to establish certain penalties, to revise certain provisions regarding the
3 seizure of contraband cigarettes, and to declare an emergency.

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

5 Section 1. That § 10-50-6 be amended to read as follows:

6 10-50-6. ~~Any~~ No cigarette on which the tax imposed by this chapter has been paid, ~~such the~~
7 payment being evidenced by the affixing of ~~such stamp or imprint~~, is not the stamp required by
8 § 10-50-18 is subject to a further tax under this chapter. ~~However, any person, who possesses~~
9 ~~two thousand or more cigarettes that do not bear a tax stamp or imprint indicating that the South~~
10 ~~Dakota cigarette tax has been paid, shall pay the tax imposed pursuant to § 10-50-3 plus a~~
11 ~~penalty equal to ten percent of the total tax due.~~ Any person who possesses or receives any
12 cigarettes that do not bear a tax stamp indicating that the tax imposed by this chapter has been
13 paid, shall pay the tax imposed pursuant to § 10-50-3, plus interest at the rate of one and
14 one-quarter percent for each month or part of a month the tax is unpaid, beginning thirty days
15 after the person's first possession or receipt of the cigarettes.



1 Any person who possesses or receives:

2 (1) More than two thousand but less than six thousand cigarettes that do not bear a tax
3 stamp indicating that the tax imposed by this chapter has been paid, shall pay the tax
4 imposed pursuant to § 10-50-3, and interest imposed by this Act, plus a penalty of
5 twenty percent of the total tax due; and

6 (2) Six thousand or more cigarettes that do not bear a tax stamp indicating that the tax
7 imposed by this chapter has been paid, shall pay the tax imposed pursuant to
8 § 10-50-3, and interest imposed by this Act, plus a penalty of one hundred percent
9 of the total tax due.

10 In addition to the requirements to pay the tax, penalty, and interest, any person who
11 possesses or receives:

12 (1) Six thousand or more but less than fourteen thousand cigarettes that do not bear a tax
13 stamp indicating that the tax imposed by this chapter has been paid is guilty of a
14 Class 1 misdemeanor; and

15 (2) Fourteen thousand or more cigarettes that do not bear a tax stamp or imprint
16 indicating that the tax imposed by this chapter has been paid is guilty of a Class 4
17 felony.

18 Except as otherwise provided in this section, the provisions of chapter 10-59 apply to the
19 assessment and collection of the tax, penalty, and interest.

20 Section 2. That § 10-50-61 be amended to read as follows:

21 10-50-61. In addition to the tax imposed by § 10-50-3, there is imposed, whether or not a
22 sale occurs, a tax upon all tobacco products in this state and upon any person engaged in
23 business as a licensed distributor or licensed wholesaler thereof, at the rate of thirty-five percent
24 of the wholesale purchase price of such tobacco products. ~~Such~~ The tax shall be imposed at the

1 time the distributor or wholesaler brings or causes to be brought into this state tobacco products
2 for sale; makes, manufactures, or fabricates tobacco products in this state for sale in this state;
3 ~~or ships or transports tobacco products to dealers in this state to be sold by those dealers; or at~~
4 the time a person possesses or receives untaxed tobacco products. For the purposes of this
5 chapter, wholesale purchase price is the price for which a manufacturer sells tobacco products
6 to a licensed distributor or licensed wholesaler exclusive of any discount or other reduction.

7 Section 3. That § 10-50-35 be amended to read as follows:

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

- 16 (1) The possession of a licensed distributor or wholesaler in the original unopened
17 shipping package; or
18 (2) A course of transit from without this state and consigned to a licensed distributor or
19 a licensed wholesaler.

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

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

400N0344

HOUSE ENGROSSED NO. **SB 53** - 02/27/2007

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

1 FOR AN ACT ENTITLED, An Act to authorize the Board of Regents to construct a new
2 engineering class/lab building for South Dakota State University and to make an
3 appropriation therefor.

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

5 Section 1. The Board of Regents may contract for the construction, completion, furnishing,
6 equipping, and maintaining of, including heating, air conditioning, plumbing, water, sewer,
7 electric facilities, architectural and engineering services, asbestos abatement, removal of existing
8 roofing and structures, and such other services and improvements as may be required to erect,
9 a new engineering class/lab building to support research, extension, education, and public
10 service activities on the campus of South Dakota University in Brookings, in Brookings County,
11 at an estimated cost of six million five hundred thousand dollars.

12 Section 2. There is hereby appropriated from private donations and grants received by South
13 Dakota State University, the sum of six million five hundred thousand dollars (\$6,500,000), or
14 so much thereof as may be necessary, to the Board of Regents for the purpose of constructing
15 the facility described in section 1 of this Act.

16 Section 3. The Board of Regents may accept, transfer, and expend any funds obtained for



1 these purposes from federal sources, gifts, contributions, or any other source, all of which shall
2 be deemed appropriated to the project authorized by this Act.

3 Section 4. The design and construction of the facilities approved by this Act shall be under
4 the general supervision of the Bureau of Administration as provided in § 5-14-2. The
5 commissioner of the Bureau of Administration and the executive director of the Board of
6 Regents shall approve vouchers and the state auditor shall draw warrants to pay expenditures
7 authorized by this Act.

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

400N0368 **HOUSE APPROPRIATIONS COMMITTEE ENGROSSED**
NO. SB 59 - 02/23/2007

Introduced by: The Committee on Appropriations at the request of the Bureau of Finance and Management

1 FOR AN ACT ENTITLED, An Act to revise the General Appropriations Act for fiscal year
2 2007 regarding appropriations to the Department of Health, the Board of Regents, the
3 Department of Corrections, the Department of Human Services, and the Office of the
4 Attorney General, and to declare an emergency.

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

6 Section 1. That section 8 of chapter 26 of the 2006 Session Laws be amended to read as
7 follows:

8 DEPARTMENT OF HEALTH

9 Tobacco Prevention

10 Operating Expenses, Other Funds, delete "\$0" and insert "\$5,000,000"

11 Adjust all totals accordingly.

12 Section 2. That section 14 of chapter 26 of the 2006 Session Laws be amended to read as
13 follows:

14 BOARD OF REGENTS

15 Regents System Office



- 1 Personal Services, General Funds, delete "\$3,545,622" and insert "\$3,549,806"
- 2 Operating Expenses, General Funds, delete "\$4,904,322" and insert "\$4,917,298"
- 3 Personal Services, Federal Funds, delete "\$72,162" and insert "\$72,246"
- 4 Operating Expenses, Federal Funds, delete "\$959,532" and insert "\$1,059,532"
- 5 Personal Services, Other Funds, delete "\$1,300,984" and insert "\$1,302,541"
- 6 Operating Expenses, Other Funds, delete "\$20,675,344" and insert "\$22,061,274"

7 Adjust all totals accordingly.

8 University of South Dakota Proper

- 9 Personal Services, General Funds, delete "\$29,131,888" and insert "\$29,167,000"
- 10 Operating Expenses, General Funds, delete "\$1,438,861" and insert "\$1,510,092"
- 11 Personal Services, Federal Funds, delete "\$5,563,059" and insert "\$5,569,909"
- 12 Personal Services, Other Funds, delete "\$28,627,762" and insert "\$28,662,783"
- 13 Operating Expenses, Other Funds, delete "\$21,930,408" and insert "\$25,439,186"

14 Adjust all totals accordingly.

15 University of South Dakota School of Medicine

- 16 Personal Services, General Funds, delete "\$16,371,847" and insert "\$16,391,901"
- 17 Operating Expenses, General Funds, delete "\$681,132" and insert "\$716,517"
- 18 Personal Services, Federal Funds, delete "\$6,693,515" and insert "\$6,701,577"
- 19 Personal Services, Other Funds, delete "\$7,850,816" and insert "\$7,860,466"
- 20 Operating Expenses, Other Funds, delete "\$3,364,795" and insert "\$4,723,075"
- 21 F.T.E., delete "384.1" and insert "404.1"

22 Adjust all totals accordingly.

23 South Dakota State University Proper

- 24 Personal Services, General Funds, delete "\$39,244,041" and insert "\$39,291,238"

- 1 Operating Expenses, General Funds, delete "\$2,976,139" and insert "\$3,073,859"
- 2 Personal Services, Federal Funds, delete "\$5,961,905" and insert "\$6,169,229"
- 3 Operating Expenses, Federal Funds, delete "\$12,721,290" and insert "\$13,492,290"
- 4 Personal Services, Other Funds, delete "\$44,518,427" and insert "\$44,572,920"
- 5 Operating Expenses, Other Funds, delete "\$46,052,402" and insert "\$47,177,402"

6 Adjust all totals accordingly.

7 Cooperative Extension Service

- 8 Personal Services, General Funds, delete "\$7,439,145" and insert "\$7,448,153"
- 9 Operating Expenses, General Funds, delete "\$428,372" and insert "\$439,134"
- 10 Personal Services, Federal Funds, delete "\$4,802,738" and insert "\$4,808,437"
- 11 Personal Services, Other Funds, delete "\$577,497" and insert "\$578,188"

12 Adjust all totals accordingly.

13 Agricultural Experiment Station

- 14 Personal Services, General Funds, delete "\$9,403,701" and insert "\$9,415,097"
- 15 Operating Expenses, General Funds, delete "\$544,064" and insert "\$562,440"
- 16 Personal Services, Federal Funds, delete "\$4,950,285" and insert "\$4,956,326"
- 17 Personal Services, Other Funds, delete "\$3,264,791" and insert "\$3,268,787"

18 Adjust all totals accordingly.

19 South Dakota School of Mines and Technology

- 20 Personal Services, General Funds, delete "\$11,987,312" and insert "\$12,001,777"
- 21 Operating Expenses, General Funds, delete "\$1,169,481" and insert "\$1,198,307"
- 22 Personal Services, Federal Funds, delete "\$5,096,162" and insert "\$5,102,447"
- 23 Personal Services, Other Funds, delete "\$9,285,270" and insert "\$9,296,686"

24 Adjust all totals accordingly.

1 Northern State University

2 Personal Services, General Funds, delete "\$9,926,142" and insert "\$9,937,845"

3 Operating Expenses, General Funds, delete "\$1,254,723" and insert "\$1,278,050"

4 Personal Services, Federal Funds, delete "\$1,311,081" and insert "\$1,312,737"

5 Personal Services, Other Funds, delete "\$8,016,320" and insert "\$8,025,883"

6 Adjust all totals accordingly.

7 Black Hills State University

8 Personal Services, General Funds, delete "\$7,226,343" and insert "\$7,234,804"

9 Operating Expenses, General Funds, delete "\$696,927" and insert "\$721,337"

10 Personal Services, Federal Funds, delete "\$4,800,854" and insert "\$4,806,623"

11 Personal Services, Other Funds, delete "\$13,400,143" and insert "\$13,416,103"

12 Adjust all totals accordingly.

13 Dakota State University

14 Personal Services, General Funds, delete "\$7,101,947" and insert "\$7,110,376"

15 Operating Expenses, General Funds, delete "\$527,632" and insert "\$534,789"

16 Personal Services, Federal Funds, delete "\$742,362" and insert "\$868,317"

17 Operating Expenses, Federal Funds, delete "\$1,722,181" and insert "\$1,887,181"

18 Personal Services, Other Funds, delete "\$7,872,030" and insert "\$8,207,516"

19 Operating Expenses, Other Funds, delete "\$6,987,586" and insert "\$7,401,586"

20 Adjust all totals accordingly.

21 South Dakota School for the Deaf

22 Personal Services, General Funds, delete "\$2,975,223" and insert "\$2,979,088"

23 Operating Expenses, General Funds, delete "\$470,856" and insert "\$476,374"

24 Personal Services, Federal Funds, delete "\$51,543" and insert "\$51,610"

1 Personal Services, Other Funds, delete "\$49,072" and insert "\$49,136"

2 Adjust all totals accordingly.

3 South Dakota School for the Blind and Visually Impaired

4 Personal Services, General Funds, delete "\$2,314,367" and insert "\$2,316,989"

5 Operating Expenses, General Funds, delete "\$147,681" and insert "\$152,310"

6 Personal Services, Federal Funds, delete "\$252,284" and insert "\$252,580"

7 Operating Expenses, Federal Funds, delete "\$45,683" and insert "\$75,683"

8 Operating Expenses, Other Funds, delete "\$237,124" and insert "\$265,672"

9 Adjust all totals accordingly.

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

12 DEPARTMENT OF CORRECTIONS

13 Administration

14 Operating Expenses, Federal Funds, delete "\$1,820,000" and insert "\$2,193,000"

15 Adjust all totals accordingly.

16 State Treatment and Rehabilitation Academy

17 Operating Expenses, Other Funds, delete "\$148,000" and insert "\$576,428"

18 Adjust all totals accordingly.

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

21 DEPARTMENT OF HUMAN SERVICES

22 SDDC - Redfield

23 Operating Expenses, Other Funds, delete "\$127,902" and insert "\$853,792"

24 Adjust all totals accordingly.

1 Human Services Center

2 Operating Expenses, Other Funds, delete "\$254,816" and insert "\$715,332"

3 Adjust all totals accordingly.

4 Section 5. That section 21 of chapter 26 of the 2006 Session Laws be amended to read as
5 follows:

6 ATTORNEY GENERAL

7 Legal Services Program

8 Personal Services, Other Funds, delete "\$395,149" and insert "\$466,261"

9 F.T.E., delete "73.0" and insert "73.6"

10 Adjust all totals accordingly.

11 Criminal Investigation

12 Personal Services, Federal Funds, delete "\$763,103" and insert "\$822,473"

13 Operating Expenses, Federal Funds, delete "\$1,621,636" and insert "\$1,766,636"

14 Operating Expenses, Other Funds, delete "\$555,817" and insert "\$604,192"

15 F.T.E., delete "63.0" and insert "64.2"

16 Adjust all totals accordingly.

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

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

445N0184

HOUSE ENGROSSED NO. **SB 74** - 02/27/2007

Introduced by: Senators Hunhoff, Heidepriem, Knudson, Koetzle, and Turbak and
Representatives Feinstein, Cutler, Gillespie, and Moore

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding health care decisions
2 for persons incapable of giving consent.

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

4 Section 1. That § 34-12C-1 be amended to read as follows:

5 34-12C-1. Terms used in this chapter mean:

- 6 (1) "Attending physician," the physician who ~~at the time of reference~~ has primary
7 responsibility for the ~~health care of a person~~ treatment and care of the patient;
- 8 (2) "Durable power of attorney for health care," an instrument executed pursuant to § 59-
9 7-2.1 that authorizes its attorney in fact to make a health care decision or to consent
10 to health care on behalf of its principal;
- 11 (3) "Health care," any care, treatment, service, or procedure to maintain, diagnose, or
12 treat a person's physical or mental condition. The term also includes admission to,
13 and personal and custodial care provided by, a licensed health care facility as defined
14 in § 34-12-1.1;
- 15 (4) "Health care decision," the determination of the health care to be provided to a



1 person;

2 (5) "Health care provider," any licensed health care facility and any person, corporation,
3 or organization licensed, certified, or otherwise authorized or permitted by law to
4 administer health care, and any physician licensed pursuant to chapter 36-4;

5 (6) "Incapacitated person," any person who is incapable of giving informed consent to
6 health care;

7 (7) "Person available to consent," any person who is authorized to make a health care
8 decision for an incapacitated person and whose existence is known to the health care
9 provider and who, in the good faith judgment of the health care provider, is
10 reasonably available for consultation and is willing and competent to make an
11 informed health care decision;

12 (8) "Close friend," any adult who has provided significant care and exhibited concern for
13 the patient, and has maintained regular contact with the patient so as to be familiar
14 with the patient's activities, health, and religious or moral beliefs.

15 Section 2. That § 34-12C-3 be amended to read as follows:

16 34-12C-3. In the absence of a durable power of attorney for health care or the appointment
17 of a guardian of the person, or if neither the attorney in fact nor guardian is available to consent,
18 a health care decision for an incapacitated person may be made by the following persons or
19 members of the incapacitated person's family who are available to consent, in the order stated:

20 (1) The spouse, if not legally separated;

21 (2) An adult child;

22 (3) A parent;

23 (4) An adult sibling;

24 (5) A grandparent or an adult grandchild;

1 (6) An adult aunt or uncle, adult cousin, or an adult niece or nephew;

2 (7) Close friend.

3 However, any person may, before a judicial adjudication of incompetence or incapacity,
4 disqualify any member of ~~his~~ the person's family from making a health care decision for ~~him~~ the
5 person. The disqualification shall appear in a document signed by the person or may be made
6 by a notation in ~~his~~ the person's medical record, if made at ~~his~~ the person's direction.

7 Any member of the incapacitated person's family may delegate the authority to make a
8 health care decision to another family member in the same or succeeding class. The delegation
9 shall be signed and may specify conditions on the authority delegated.

10 Any person authorized to make a health care decision for an incapacitated person shall be
11 guided by the express wishes of the incapacitated person, if known, and shall otherwise act in
12 good faith, in the incapacitated person's best interest, and may not arbitrarily refuse consent.
13 Whenever making any health care decision for the incapacitated person, the person available to
14 consent shall consider the recommendation of the attending physician, the decision the
15 incapacitated person would have made if the incapacitated person then had decisional capacity,
16 if known, and the decision that would be in the best interest of the incapacitated person.

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

409N0183

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

SB 75 - 02/23/2007

Introduced by: Senators Hunhoff, Heidepriem, Knudson, Koetzle, and Turbak and
Representatives Feinstein, Cutler, Gillespie, and Moore

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding living wills.

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

3 Section 1. That § 34-12D-1 be amended to read as follows:

4 34-12D-1. Terms used in this chapter mean:

5 (1) "Attending physician," the physician who has primary responsibility for the treatment
6 and care of the patient;

7 (2) "Declaration," a writing executed in accordance with the requirements of § 34-12D-2;

8 (3) "~~Health-care~~ Health care provider," any ~~person who is licensed, certified, or~~
9 ~~otherwise authorized by law to administer health care in the ordinary course of~~
10 ~~business or practice of a profession, including any person employed by or acting for~~
11 ~~any such authorized person~~ licensed health care facility or any person, corporation,
12 or organization licensed, certified, or otherwise authorized or permitted by law to
13 administer health care;

14 (4) "Life-sustaining treatment," any medical procedure or intervention that, when
15 administered to a ~~qualified~~ patient, will serve only to postpone the moment of death



1 or to maintain the patient in a condition of permanent unconsciousness. The term
 2 does not include the provision of appropriate care to maintain comfort, hygiene and
 3 human dignity, the oral administration of food and water, or the administration of any
 4 medication or other medical procedure deemed necessary to alleviate pain;

5 (5) "Person," an individual, corporation, business trust, estate, trust, limited liability
 6 company, partnership, association, joint venture, government, governmental
 7 subdivision, or agency, or any other legal or commercial entity;

8 (6) "Physician," an individual licensed to practice medicine in this state;

9 (7) ~~"Qualified patient," an adult individual who has executed a declaration and who has
 10 been determined by the attending physician and one other physician to be in a
 11 terminal condition;~~

12 ~~—(8)—~~ "Terminal condition," an incurable and irreversible condition such that, in accordance
 13 with accepted medical standards, ~~will cause death within a relatively short time~~ death
 14 is imminent if life-sustaining treatment is not administered, or a coma or other
 15 condition of permanent unconsciousness that, in accordance with accepted medical
 16 standards, will last indefinitely without significant improvement and in which the
 17 individual is unable to communicate verbally or nonverbally, demonstrates no
 18 purposeful movement or motor ability, and is unable to interact purposefully with
 19 environmental stimulation.

20 Section 2. That § 34-12D-3 be amended to read as follows:

21 34-12D-3. A declaration may, but need not, be in the following form:

22 LIVING WILL DECLARATION

23 This is an important legal document. ~~This document~~ A living will directs the medical
 24 treatment you are to receive in the event you are in a terminal condition and are unable to

1 participate in your own medical decisions ~~and you are in a terminal condition~~. This document
2 living will may state what kind of treatment you want or do not want to receive.

3 ~~This document can control whether you live or die~~. Prepare this document living will
4 carefully. If you use this form, read it completely. You may want to seek professional help to
5 make sure the form does what you intend and is completed without mistakes.

6 This ~~document will remain~~ living will remains valid and in effect until and unless you
7 revoke it. Review this ~~document~~ living will periodically to make sure it continues to reflect your
8 wishes. You may amend or revoke this ~~document~~ living will at any time by notifying your
9 physician and other ~~health-care~~ health care providers. You should give copies of this ~~document~~
10 living will to your ~~physician and your family, your physician, and your health care facility~~. This
11 form is entirely optional. If you choose to use this form, please note that the form provides
12 signature lines for you, the two witnesses whom you have selected, and a notary public.

13 TO MY FAMILY, PHYSICIANS HEALTH CARE PROVIDER, AND ALL THOSE
14 CONCERNED WITH MY CARE:

15 I, _____ ~~willfully and voluntarily make this declaration as a directive to be followed if I am~~
16 ~~in a terminal condition and become unable to participate in decisions regarding my medical care~~
17 direct you to follow my wishes for care if I am in a terminal condition, my death is imminent,
18 and I am unable to communicate my decisions about my medical care.

19 With respect to any life-sustaining treatment, I direct the following:

20 (Initial only one of the following ~~optional directives if you agree~~ options. If you do not agree
21 with ~~any~~ either of the following ~~directives~~ options, space is provided below for you to write your
22 own ~~directives~~ instructions.):

23 ~~_____ NO LIFE-SUSTAINING TREATMENT. I direct that no life-sustaining treatment be~~
24 ~~provided. If life-sustaining treatment is begun, terminate it.~~

1 ~~___ TREATMENT FOR RESTORATION. Provide life-sustaining treatment only if and for~~
2 ~~so long as you believe treatment offers a reasonable possibility of restoring to me the ability to~~
3 ~~think and act for myself.~~

4 ~~___ TREAT UNLESS PERMANENTLY UNCONSCIOUS. If you believe that I am~~
5 ~~permanently unconscious and are satisfied that this condition is irreversible, then do not provide~~
6 ~~me with life-sustaining treatment, and if life-sustaining treatment is being provided to me,~~
7 ~~terminate it. If and so long as you believe that treatment has a reasonable possibility of restoring~~
8 ~~consciousness to me, then provide life-sustaining treatment.~~

9 ~~___ MAXIMUM TREATMENT. Preserve my life as long as possible, but do not provide~~
10 ~~treatment that is not in accordance with accepted medical standards as then in effect.~~

11 ~~___ (Artificial nutrition and hydration is food and water provided by means of a nasogastric tube~~
12 ~~or tubes inserted into the stomach, intestines, or veins. If you do not wish to receive this form~~
13 ~~of treatment, you must initial the statement below which reads: "I intend to include this~~
14 ~~treatment, among the 'life-sustaining treatment' that may be withheld or withdrawn.")~~

15 ___ If my death is imminent or I am permanently unconscious, I choose not to prolong my life.
16 If life sustaining treatment has been started, stop it, but keep me comfortable and control my
17 pain.

18 ___ Even if my death is imminent or I am permanently unconscious, I choose to prolong my
19 life.

20 ___ I choose neither of the above options, and here are my instructions should I become
21 terminally ill and my death is imminent or I am permanently unconscious:

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Artificial Nutrition and Hydration: food and water provided by means of a tube inserted into the stomach or intestine or needle into a vein.

With respect to artificial nutrition and hydration, I ~~wish to make clear that~~ direct the following:

(Initial only one)
~~___ I intend to include this treatment among the "life-sustaining treatment" that may be withheld or withdrawn.~~

~~___ I do not intend to include this treatment among the "life-sustaining treatment" that may be withheld or withdrawn.~~

~~(If you do not agree with any of the printed directives and want to write your own, or if you want to write directives in addition to the printed provisions, or if you want to express some of your other thoughts, you can do so here).~~

___ If my death is imminent or I am permanently unconscious, I do not want artificial nutrition and hydration. If it has been started, stop it.

___ Even if my death is imminent or I am permanently unconscious, I want artificial nutrition and hydration.

Date: _____

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(your signature)

(your address)

(type or print your signature)

The declarant voluntarily signed this document in my presence.

Witness _____

Address _____

Witness _____

Address _____

On this the _____ day of _____, _____, the declarant, _____, and witnesses _____, and _____ personally appeared before the undersigned officer and signed the foregoing instrument in my presence. Dated this _____ day of _____, _____.

_____ Notary Public

My commission expires: _____.

Section 3. That § 34-12D-5 be amended to read as follows:

34-12D-5. A living will declaration becomes operative when the declarant is determined by the attending physician ~~and one other physician~~ to be in a terminal condition ~~and, death is imminent, and the declarant is~~ no longer able to ~~make decisions regarding administration of life-sustaining treatment. If the declaration becomes operative, the attending physician and other health-care providers shall act in accordance with the declaration or comply with the transfer requirements of § 34-12D-11~~ communicate decisions about medical care.

Section 4. That § 34-12D-8 be amended to read as follows:

34-12D-8. A declarant may revoke a declaration at any time and in any manner without

1 regard to the declarant's mental or physical condition. A revocation is effective upon
2 communication to the ~~attending physician or other health-care~~ health care provider. The
3 ~~attending physician or health-care~~ health care provider shall make the revocation a part of the
4 declarant's medical record.

5 Section 5. That § 34-12D-9 be amended to read as follows:

6 34-12D-9. This chapter does not affect the responsibility of ~~the attending physician or other~~
7 ~~health-care~~ any health care provider to provide treatment, ~~including orally or artificially~~
8 ~~administered nutrition and hydration~~, when necessary to alleviate pain or to provide for the
9 patient's comfort, hygiene, or human dignity.

10 Section 6. That § 34-12D-11 be amended to read as follows:

11 34-12D-11. A ~~physician or other health-care~~ health care provider need not participate in the
12 withdrawal or withholding of life-sustaining treatment. However, a ~~physician or other~~
13 ~~health-care~~ health care provider electing for any reason not to participate in the withholding or
14 withdrawal of life-sustaining treatment shall make a reasonable effort to locate and to transfer
15 the declarant to a physician or ~~health-care~~ health care provider willing to honor the declaration.

16 Section 7. That § 34-12D-12 be amended to read as follows:

17 34-12D-12. If an individual's declaration contains a directive to provide treatment or
18 artificial nutrition and hydration under any circumstances, any ~~physician or health-care~~ health
19 care provider who has responsibility for the treatment and care of the individual must provide
20 the directed treatment or artificial nutrition and hydration in those circumstances so long as it
21 is technically feasible. A ~~physician or health-care~~ health care provider who objects to providing
22 such treatment may instead transfer the individual to a ~~physician or health-care~~ health care
23 provider willing to honor the declaration, but must continue to provide the treatment or care
24 until the transfer is effectuated.

1 Section 8. That § 34-12D-13 be amended to read as follows:

2 34-12D-13. A ~~physician or other health-care~~ health care provider is not subject to civil or
3 criminal liability or to ~~discipline for unprofessional conduct~~ professional disciplinary action for
4 giving effect to a declaration, absent actual knowledge of its revocation, for determining that
5 a terminal condition does or does not exist or for declining to give effect to a declaration under
6 § 34-12D-11.

7 Section 9. That § 34-12D-14 be amended to read as follows:

8 34-12D-14. Death resulting from the withdrawal or withholding of life-sustaining treatment
9 in accordance with this chapter does not constitute, for any purpose, a suicide on the part of the
10 declarant or a homicide on the part of the attending physician or other ~~health-care~~ health care
11 providers.

12 Section 10. That § 34-12D-19 be amended to read as follows:

13 34-12D-19. This chapter does not require a physician or other ~~health-care~~ health care
14 provider to take action contrary to ~~reasonable~~ accepted medical standards.

15 Section 11. That § 34-12D-21 be amended to read as follows:

16 34-12D-21. In the absence of actual knowledge to the contrary, a ~~physician or other~~
17 ~~health-care~~ health care provider may assume that a declaration complies with this chapter and
18 is valid.

19 Section 12. That § 34-12D-29 be amended to read as follows:

20 34-12D-29. For the purposes of §§ 34-12D-23 to 34-12D-28, inclusive, the term, licensed
21 health care professional, means any physician, surgeon, podiatrist, osteopath, physician
22 assistant, nurse, certified nurse practitioner, certified nurse midwife, clinical nurse specialist,
23 certified registered nurse anesthetist, dentist, or pharmacist licensed pursuant to Title 36.

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

708N0435

HOUSE ENGROSSED NO. **SB 87** - 02/27/2007

Introduced by: Senators Gant, Garnos, Hansen (Tom), Hauge, Nesselhuf, and Smidt and
Representatives Hackl, Brunner, Buckingham, Deadrick, Juhnke, Peters, and
Willadsen

1 FOR AN ACT ENTITLED, An Act to permit school district boards to consist of a combination
2 of members who are elected at large and by member representation areas.

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

4 Section 1. That § 13-8-7.1 be amended to read as follows:

5 13-8-7.1. Any school board may establish school board member representation areas. The
6 electors of any school district may also establish school board representation areas by a majority
7 vote of all electors voting at an election called and held as set forth in §§ 13-8-3 to 13-8-5,
8 inclusive. The representation areas, if established, shall become effective January first of the
9 following year. Each representation area shall include a population with a variance of not more
10 than five percent and shall be reapportioned at least once every ten years. ~~The number of~~
11 ~~representation areas shall be the same as the number of board members.~~ If board member
12 representation areas are established, the school board member candidate shall be a resident voter
13 and reside within the representation area to qualify. Before the school board member
14 representation areas are established, the entity responsible for establishing the school board
15 member representation areas shall state whether the board members will be elected at large or



1 elected by the voters who reside within the representation area or elected by any combination
2 thereof.

3 All current board members shall serve the balance of their terms. At the time of an election
4 or vacancy, board members shall be elected or appointed in order that each representation area
5 shall have a resident board member.

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

190N0473 **HOUSE APPROPRIATIONS COMMITTEE ENGROSSED**
NO. SB 100 - 02/23/2007

Introduced by: Senators Bartling, Apa, Duenwald, Gant, Garnos, Greenfield, Hansen (Tom), Hanson (Gary), Kloucek, Koetzle, Lintz, Maher, McNenny, Peterson (Jim), Smidt, and Sutton and Representatives Tidemann, Brunner, Burg, Davis, Dennert, DeVries, Elliott, Gillespie, Glenski, Halverson, Hunt, Jerke, Juhnke, Krebs, Lucas, Moore, Nelson, Noem, Pederson (Gordon), Peters, Pitts, Rausch, Sigdestad, Thompson, Turbiville, and Vanneman

1 FOR AN ACT ENTITLED, An Act to appropriate money for the Northern Crops Institute.

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 seventy-five
4 thousand dollars (\$75,000), or so much thereof that may be necessary, to the Department of
5 Agriculture for a grant to the Northern Crops Institute.

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

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

