

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

519P0019

SENATE ENGROSSED NO. **HB 1005** - 2/12/2008

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

Introduced by: Representatives Rhoden, Boomgarden, Dennert, Juhnke, Noem, Sigdestad, and Vanneman and Senators Knudson, Hansen (Tom), Lintz, and Peterson (Jim) at the request of the Interim Property Tax Assessment Study Committee

1 FOR AN ACT ENTITLED, An Act to revise certain provisions concerning the assessment of
2 real property, to assess agricultural land based on its agricultural income value, to create an
3 implementation and oversight advisory task force, to repeal certain provisions regarding the
4 assessment of property, and to repeal the nonagricultural acreage classification.

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

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

8 Notwithstanding the provisions of § 10-6-74, if any nonagricultural or owner-occupied
9 property sells for more than one hundred fifty percent of its assessed value after November 1,
10 2008, the sale of such property shall be used to value other real property if the sale is an arms-
11 length transaction. However, for the taxable valuation for the taxes payable in 2011, 2012, 2013,
12 2014, and 2015, no nonagricultural or owner-occupied property's valuation may increase more
13 than five percent per year because of such sales. The sales of nonagricultural and owner-
14 occupied property may only be used in a sales ratio study as allowed by this section.



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

3 For the taxes payable in 2011, 2012, and 2013, the total taxable value of agricultural land
4 within any county may not increase more than fifteen percent in any year.

5 Section 3. That sections 1 and 2 of this Act be repealed on July 1, 2015.

6 Section 4. That § 10-6-74 be repealed on July 1, 2014.

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

9 Notwithstanding the provisions of § 10-6-33, beginning on July 1, 2009, agricultural land
10 shall be assessed based on its agricultural income value on a per acre basis. The agricultural
11 income value of agricultural land shall be determined on the basis of productivity and the annual
12 earnings capacity of the agricultural land. The productivity of agricultural land and its annual
13 earning capacity shall be based on data collected and analyzed pursuant to sections 5 to 10,
14 inclusive, of this Act.

15 Agricultural income value is defined as the capitalized average annual earning capacity on
16 a per acre basis which has been adjusted by an amount that reflects the landowner's share of the
17 gross return. The capacity of cropland to produce agricultural products shall be based on the
18 income from crops or plants produced on the land. The capacity of noncropland to produce
19 agricultural products shall be based on the animal unit carrying capacity of the land. For the
20 purpose of this section, annual earning capacity for cropland and noncropland shall be
21 determined by the 2009 and 2010 Legislature.

22 The annual earning capacity shall be capitalized at a rate of six percent to determine the
23 agricultural income value.

24 Section 6. That chapter 10-6 be amended by adding thereto a NEW SECTION to read as

1 follows:

2 The secretary of revenue and regulation shall enter into contracts with South Dakota State
3 University and, if necessary, the South Dakota Agricultural Statistics Service for the purpose
4 of creating a database to determine the agricultural income value of agricultural land by county.

5 The cropland data shall include: acres planted, acres harvested, yield per acre, and locally
6 adjusted crop prices. Locally adjusted crop prices shall be established by adjusting statewide
7 prices. The noncropland data shall include: rangeland acres, pastureland acres, rangeland AUM's
8 per acre, pastureland AUM's per acre, grazing season data, and statewide cow and calf prices.

9 The secretary shall have such data collected for 2001, which will serve as the first year of the
10 database, and each year thereafter. The database shall consist of the most recent eight years of
11 data that have been collected and the two years, one year representing the highest agricultural
12 income value and one year representing the lowest agricultural income value, shall be discarded
13 from the database. The database for the 2010 assessment for taxes payable in 2011 shall consist
14 of data from 2001 to 2008, inclusive, and the database for each assessment year thereafter shall
15 be adjusted accordingly. The economics department shall provide the data for each county to
16 the secretary of revenue and regulation by June first of each year.

17 Section 7. That chapter 10-6 be amended by adding thereto a NEW SECTION to read as
18 follows:

19 The economics department of South Dakota State University shall submit recommendations
20 to the Agricultural Land Assessment Implementation and Oversight Advisory Task Force by
21 November 1, 2008, regarding factors to use for the percentage of annual earning capacity to be
22 used to determine the agricultural income value of the land pursuant to section 5 of this Act and
23 other provisions used to assess agricultural land that will provide the least amount of shift
24 between cropland and noncropland on a statewide basis. Thereafter, the economics department

1 shall submit such recommendations, if any, to the task force by September first of each year.

2 Section 8. That chapter 10-6 be amended by adding thereto a NEW SECTION to read as
3 follows:

4 Before July first each year, the secretary of revenue and regulation shall annually provide
5 each director of equalization the agricultural income value for each county as computed
6 pursuant to section 5 of this Act. The director of equalization shall annually determine the
7 assessed value of agricultural land. The assessed value of agricultural land may be adjusted by
8 the following factors:

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

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

16 Agricultural land shall be divided by the director of equalization into categories, including
17 cropland and noncropland. Each category shall be divided into classes based on soil
18 classification standards developed by the United States Department of Agriculture Natural
19 Resources Conservation Service.

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

22 Buildings and structures, other than normally occupied dwellings on agricultural land and
23 automobile garages or portions of buildings used as automobile garages, which are used
24 exclusively for agricultural purposes and situated on agricultural land, are hereby specifically

1 classified for tax purposes as agricultural property and shall be assessed as similar
2 nonagricultural property.

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

5 The agricultural income value for agricultural land as determined by sections 5 to 10,
6 inclusive, of this Act represents the market value of agricultural land, and the Department of
7 Revenue and Regulation shall provide the director of equalization of each county the factor of
8 adjustment necessary for the computation required pursuant to §§ 10-3-41, 10-12-31.1,
9 10-12-42, and 10-13-37.

10 Section 12. That chapter 10-6 be amended by adding thereto a NEW SECTION to read as
11 follows:

12 There is hereby established the Agricultural Land Assessment Implementation and Oversight
13 Advisory Task Force. The task force shall consist of the following twelve members:

14 (1) The speaker of the House of Representatives shall appoint four members of the
15 House of Representatives, no more than two of whom may be from one political
16 party;

17 (2) The speaker of the House of Representatives shall appoint two members of the
18 general public;

19 (3) The president pro tempore of the Senate shall appoint four members of the Senate,
20 no more than two of whom may be from one political party; and

21 (4) The president pro tempore of the Senate shall appoint two members of the general
22 public.

23

24 The initial appointments shall be made no later than July 1, 2008, and shall serve until

1 January 12, 2009. The speaker of the House of Representatives and president pro tempore of the
2 Senate before the close of each regular session of the Legislature held in odd-numbered years
3 shall appoint members to the task force for a term of two years. If there is a vacancy on the task
4 force, the vacancy shall be filled in the same manner as the original appointment.

5 The task force shall advise the department regarding the rules promulgated by the
6 department to administer the provisions concerning the assessment and taxation of agricultural
7 lands and shall review the implementation of the provisions of law concerning the assessment
8 and taxation of agricultural land. The task force shall report to the Senate and House of
9 Representatives and may submit a copy of its report to the Governor. The task force may present
10 draft legislation and policy recommendations to the Legislative Research Council Executive
11 Board.

12 The task force shall make recommendations in the following areas:

- 13 (1) The proper percentage of annual earning capacity to be used to determine the
14 agricultural income value for subdivisions (1) and (2) of section 5 of this Act; and
15 (2) The proper capitalization rate in order to have total taxable valuation for the taxes
16 payable in 2011 from agricultural property be not more than total taxable valuation
17 for the taxes payable in 2010 from agricultural property plus the estimated growth in
18 agricultural property value in 2010.

19 Section 13. That § 10-6-33.13 be amended to read as follows:

20 10-6-33.13. The secretary of revenue and regulation may promulgate rules pursuant to
21 chapter 1-26 concerning the:

- 22 (1) Collection and tabulation of information required to determine median appraisal or
23 sales assessment ratio, and coefficient of dispersion;

24

- 1 (2) Criteria to be included in a compliance audit of assessment practices; ~~and~~
- 2 (3) Conditions under which a certificate of compliance may be issued to a county;
- 3 (4) Procedures for determining the valuation of agricultural buildings and structures;
- 4 (5) Procedures for determining the valuation of dwellings on agricultural land and
- 5 automobile garages or portions of buildings used as automobile garages;
- 6 (6) Application of cropland and noncropland income values;
- 7 (7) Application of soil classification standards; and
- 8 (8) Procedures for making adjustments to the value of agricultural land pursuant to
- 9 sections 5 to 10, inclusive, of this Act.

10 Before the secretary promulgates any rules pursuant to subdivision (4) to (8), inclusive, the
11 secretary shall present the proposed rules to the Agricultural Land Assessment Implementation
12 and Oversight Advisory Task Force established pursuant to section 12 of this Act.

13 Section 14. That § 10-12-31.1 be amended to read as follows:

14 10-12-31.1. Notwithstanding other provision of law, when applying the levies for school
15 purposes, the county director of equalization of each county shall adjust the level of assessment
16 in that district so that the level of assessment as indicated by the most recent assessment to sales
17 ratio as provided for in § 10-11-55 and the most recent ~~assessment to full agricultural land value~~
18 ~~ratio~~ agricultural income value as provided for in ~~§ 10-11-57~~ sections 5 to 10, inclusive, of this
19 Act in that district are equal to eighty-five percent of market value or agricultural income value.

20 The Department of Revenue and Regulation shall provide the director of equalization of each
21 county all of the factors of adjustment necessary for the computations required in this section.

22 Section 15. That § 10-6-33.3 be amended to read as follows:

23 10-6-33.3. Land or improvement on land within an operating unit which is not used incident
24 to an agricultural pursuit shall be separately listed and assessed ~~and the income therefrom shall~~

1 ~~not be used in determining the values for the purposes of §§ 10-6-33.1 and 10-6-33.2.~~

2 Section 16. That § 10-6-33.5 be amended to read as follows:

3 10-6-33.5. The assessment, valuation, equalization, and taxation of school and endowment
4 lands shall be at the same level and on the same basis as lands assessed, valued, and equalized
5 according to §§ ~~10-6-33.1 to 10-6-33.4, inclusive~~ sections 5 to 10, inclusive, of this Act.

6 Section 17. That § 10-6-33.7 be amended to read as follows:

7 10-6-33.7. Agricultural land in each county shall be divided into the eight classes defined
8 by the United States Department of Agriculture's soil conservation service as published in its
9 soil survey for each county. The county director of equalization shall, based on the agricultural
10 lands soil survey classification, determine a value for each soil type. ~~The value for each soil type~~
11 ~~shall be determined from sales of similar land based upon its soil survey classification, and as~~
12 ~~adjusted for the factors contained in subdivision 10-6-33.1(2). The sales used shall be sales of~~
13 ~~agricultural land that are sold for agricultural purposes.~~

14 Section 18. That § 10-6-31.3 be amended to read as follows:

15 10-6-31.3. For tax purposes, land is agricultural land if it meets two of the following three
16 criteria:

- 17 (1) At least thirty-three and one-third percent of the total family gross income of the
18 owner is derived from the pursuit of agriculture as defined in subdivision (2) of this
19 section or it is a state-owned public shooting area or a state-owned game production
20 area as identified in § 41-4-8 and it is owned and managed by the Department of
21 Game, Fish and Parks;
- 22 (2) Its principal use is devoted to the raising and harvesting of crops or timber or fruit
23 trees, the rearing, feeding, and management of farm livestock, poultry, fish, or
24 nursery stock, the production of bees and apiary products, or horticulture, all for

1 intended profit pursuant to subdivision (1) of this section. Agricultural real estate also
 2 includes woodland, wasteland, and pasture land, but only if the land is held and
 3 operated in conjunction with agricultural real estate as defined and it is under the
 4 same ownership;

5 (3) It consists of not less than twenty acres of unplatted land or is a part of a contiguous
 6 ownership of not less than eighty acres of unplatted land. The same acreage
 7 specifications apply to platted land, excluding land platted as a subdivision, which
 8 is in an unincorporated area. However, the board of county commissioners may
 9 increase the minimum acre requirement up to one hundred sixty acres.

10 ~~However, for tax purposes, land is not agricultural land if the land is classified pursuant to~~
 11 ~~§ 10-6-33.14 as a nonagricultural acreage.~~

12 Section 19. That § 10-13-37.1 be amended to read as follows:

13 10-13-37.1. For purposes of ~~§ 10-6-33.24 and~~ §§ 10-3-41, 10-12-31.1, and 10-13-37, the
 14 secretary of revenue and regulation shall calculate a factor for each county for the agricultural
 15 ~~and~~ nonagricultural valuations. The factor shall be calculated by using the sales of arms-length
 16 transactions and the assessments from the preceding assessment year. The secretary shall take
 17 into consideration any reappraisals completed by the director of equalization. If there are less
 18 fewer than fifteen sales of either class, the secretary shall use the preceding year's sales of that
 19 class with current assessments. ~~In the case of agricultural land, sales may also be bridged in~~
 20 ~~from adjoining counties if there are less than fifteen sales.~~

21 Section 20. That § 13-11-10 be amended to read as follows:

22 13-11-10. In implementing the terms of § 13-11-9, a separate weighted average tax levy of
 23 the receiving districts shall be calculated for agricultural property, ~~nonagricultural acreage~~
 24 ~~property~~, owner-occupied single-family dwelling property, and for nonagricultural property for

1 each sending school district as follows:

2 (1) The levy per thousand dollars of taxable valuation for agricultural property for each
3 receiving school district shall be multiplied by the number of children from the
4 sending school district to whom the receiving school district is providing educational
5 services;

6 (2) Add together the products from subdivision (1) for each receiving school district;

7 (3) Divide the sum from subdivision (2) by the total number of students that the
8 contracting school district is sending to the receiving school districts pursuant to
9 § 13-15-1.3. The quotient is the weighted average tax levy per one thousand dollars
10 of taxable valuation for agricultural property;

11 (4) The weighted average tax levy per thousand dollars of taxable valuation for
12 ~~nonagricultural acreage~~, owner-occupied single-family dwellings, and nonagricultural
13 property shall be obtained by repeating the procedure outlined in subdivisions (1) to
14 (3), inclusive, for each class of property; and

15 (5) The sum of the levies assessed for all funds in the sending district shall be equal to
16 or greater than the sum of all levies for all funds in the receiving district.

17 The above calculations do not include students receiving educational services from an
18 out-of-state school district nor the tax levy of any out-of-state school district.

19 Section 21. That § 10-12-42 be amended to read as follows:

20 10-12-42. For taxes payable in ~~2008~~ 2011 and each year thereafter, the levy for the general
21 fund of a school district shall be as follows:

22 (1) The maximum tax levy shall be nine dollars and eleven cents per thousand dollars of
23 taxable valuation subject to the limitations on agricultural property as provided in
24 subdivision (2) of this section, and owner-occupied property as provided for in

1 subdivision (3) of this section, ~~and nonagricultural acreage property as provided for~~
2 ~~in subdivision (4) of this section;~~

3 (2) The maximum tax levy on agricultural property for such school district shall be two
4 dollars and seventy-one cents per thousand dollars of taxable valuation. If the
5 district's levies are less than the maximum levies as stated in this section, the levies
6 shall maintain the same proportion to each other as represented in the mathematical
7 relationship at the maximum levies; and

8 (3) The maximum tax levy for an owner-occupied single-family dwelling as defined in
9 § 10-13-40, for such school district may not exceed four dollars and twenty-six cents
10 per thousand dollars of taxable valuation. If the district's levies are less than the
11 maximum levies as stated in this section, the levies shall maintain the same
12 proportion to each other as represented in the mathematical relationship at the
13 maximum levies; ~~and~~

14 ~~(4) The maximum tax levy on nonagricultural acreage property as defined in § 10-6-~~
15 ~~33.14, for such school district shall be three dollars and seventy-one cents per~~
16 ~~thousand dollars of taxable valuation. If the district's levies are less than the~~
17 ~~maximum levies as stated in this section, the levies shall maintain the same~~
18 ~~proportion to each other as represented in the mathematical relationship at the~~
19 ~~maximum levies.~~

20 All levies in this section shall be imposed on valuations where the median level of
21 assessment represents eighty-five percent of market value as determined by the Department of
22 Revenue and Regulation. These valuations shall be used for all school funding purposes. If the
23 district has imposed an excess levy pursuant to § 10-12-43, the levies shall maintain the same
24 proportion to each other as represented in the mathematical relationship at the maximum levies

1 in this section. The school district may elect to tax at less than the maximum amounts set forth
2 in this section.

3 Section 22. That § 10-6-33.25 be amended to read as follows:

4 10-6-33.25. For the purposes of § 10-6-33.24, the agricultural income value shall be
5 determined using capitalized annual cash rent. The annual cash rent is the annual cash rent,
6 excluding the per acre tax on agricultural land, determined through an analysis of arms-length
7 rental agreements collected within the county in the three years prior to the year for which the
8 agricultural income value is being determined. The agricultural income value of cropland shall
9 be based on average rents over a three-year period for cropland under natural conditions. The
10 agricultural income value of noncropland shall be based on average rents over a three-year
11 period for noncropland under natural conditions. However, no arms-length rental agreements
12 for irrigated land may be used to determine the annual cash rent pursuant to this section. The
13 annual cash rent shall be capitalized at ~~seven and three-fourths~~ six and fifteen hundredths
14 percent.

15 The secretary of revenue and regulation may enter into a contract for the collection of cash
16 rent information by county. Cash rent information shall be adjusted by soil survey statistics, if
17 available, and pursuant to § 10-6-33.26.

18 Section 23. That §§ 10-6-33.1, 10-6-33.4, 10-6-33.6, §§ 10-6-33.14 to 10-6-33.20, inclusive,
19 and §§ 10-6-33.23 to 10-6-33.27, inclusive, be repealed.

20 Section 24. That sections 14 to 21, inclusive, and section 23 are effective on July 1, 2009.

21 Section 25. The Department of Revenue and Regulation shall submit to the Legislature by
22 January 15, 2009, the total 2009 taxable valuations and by January 15, 2010, the total 2010
23 taxable valuations for the state and each county by each classification of property identified in
24 § 10-12-42.

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

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SENATE ENGROSSED NO. **HB 1006** - 2/12/2008

Introduced by: Representatives Rhoden, Boomgarden, Dennert, Juhnke, Noem, Sigdestad, and Vanneman and Senators Knudson, Hansen (Tom), Lintz, and Peterson (Jim) at the request of the Interim Property Tax Assessment Study Committee

1 FOR AN ACT ENTITLED, An Act to revise certain tax levy limitations and property tax levies
2 for school districts.

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

4 Section 1. That § 13-13-72.1 be amended to read as follows:

5 13-13-72.1. Any adjustments in the levies specified in ~~subdivision 13-13-10.1(6)~~ § 10-12-42
6 made pursuant to §§ 13-13-71 and 13-13-72 shall be based on maintaining the relationship
7 between statewide local effort as a percentage of statewide local need in the fiscal year
8 succeeding the fiscal year in which the adjustment is made. In addition to the adjustments in the
9 levies provided by this section, the levies shall also be annually adjusted as necessary to reduce
10 the portion of local need paid by local effort by an amount equal to nine million dollars from
11 those funds transferred into the property tax reduction fund pursuant to § 10-50-52 subsequent
12 to July 1, 2007. In addition to the adjustments in the levies provided by this section, the levies
13 for nonagricultural property and owner-occupied single-family dwellings shall also be adjusted
14 as necessary to account for the additional increase in the total assessed value for nonagricultural



1 property and owner-occupied single-family dwellings pursuant to the phasing out and repeal of
2 the provisions provided in § 10-6-74.

3 Section 2. That § 13-10-6 be amended to read as follows:

4 13-10-6. For the purpose of continuing a fund for the payment of pensions to retired
5 employees of ~~a school districts which shall have~~ district that has established such system, ~~such~~
6 ~~districts~~ the school district may levy an annual tax not exceeding thirty cents per thousand
7 dollars of taxable valuation of ~~such~~ the school district for the current year. ~~Such~~ The levy may
8 not be included in determining the tax levy limitation of ~~such~~ the school district provided by
9 law. Moneys collected from ~~such~~ the tax shall be kept by the business manager in a special
10 pension fund and ~~shall~~ may not be used for any other purpose except upon discontinuance of
11 ~~such~~ the pension system by the school district, in which case any unexpended balance shall be
12 transferred to the general fund.

13 For taxes payable in 2011, the total amount of revenue payable from the levy provided in
14 this section may not increase more than the lesser of three percent or the index factor, as defined
15 in § 10-13-38, over the maximum amount of revenue that could have been generated for the
16 taxes payable in 2010. After applying the index factor, a school district may increase the revenue
17 payable from taxes on real property above the limitations provided by this section by the
18 percentage increase of value resulting from any improvements or change in use of real property,
19 annexation, minor boundary changes, and any adjustments in taxation of real property separately
20 classified and subject to statutory adjustments and reductions under chapters 10-4, 10-6, 10-6A,
21 and 10-6B, except § 10-6-31.4, only if assessed the same as property of equal value.

22 For taxes payable in 2012, 2013, 2014, and 2015, the total amount of revenue payable from
23 the levy provided in this section may not increase more than the lesser of three percent or the
24 index factor, as defined in § 10-13-38, over the maximum amount of revenue that could have

1 been generated for the taxes payable in 2010 plus any unused index factor from the previous
2 years. After applying the index factor, a school district may increase the revenue payable from
3 taxes on real property above the limitations provided by this section by the percentage increase
4 of value resulting from any improvements or change in use of real property, annexation, minor
5 boundary changes, and any adjustments in taxation of real property separately classified and
6 subject to statutory adjustments and reductions under chapters 10-4, 10-6, 10-6A, and 10-6B,
7 except § 10-6-31.4, only if assessed the same as property of equal value.

8 Any school district created or reorganized after January 1, 2009, is exempt from the
9 limitation provided by this section for a period of two years immediately following its creation.

10 For taxes payable in 2011, 2012, 2013, 2014, and 2015, the levy limitation of thirty cents
11 per thousand dollars of taxable valuation does not apply to any school district.

12 Section 3. That § 13-16-7 be amended to read as follows:

13 13-16-7. The school board of any school district of this state may at its discretion authorize
14 an annual levy of a tax not to exceed three dollars per thousand dollars of taxable valuation on
15 the taxable valuation of the district for the capital outlay fund for assets as defined by § 13-16-6
16 or for its obligations under a resolution, lease-purchase agreement, capital outlay certificate, or
17 other arrangement with the Health and Educational Facilities Authority. Taxes collected
18 pursuant to such levy may be irrevocably pledged by the school board to the payment of
19 principal of and interest on installment purchase contracts or capital outlay certificates entered
20 into or issued pursuant to § 13-16-6 or 13-16-6.2 or lease-purchase agreements or other
21 arrangement with the Health and Educational Facilities Authority and, so long as any capital
22 outlay certificates are outstanding, installment agreement payments, lease-purchase agreements,
23 or other arrangements are unpaid, the school board of any district may be compelled by
24 mandamus or other appropriate remedy to levy an annual tax sufficient to pay principal and

1 interest thereon, but not to exceed the three dollars per thousand dollars of taxable valuation in
2 any year authorized to be levied hereby.

3 For taxes payable in 2011, the total amount of revenue payable from the levy provided in
4 this section may not increase more than the lesser of three percent or the index factor, as defined
5 in § 10-13-38, over the maximum amount of revenue that could have been generated for the
6 taxes payable in 2010. After applying the index factor, a school district may increase the revenue
7 payable from taxes on real property above the limitations provided by this section by the
8 percentage increase of value resulting from any improvements or change in use of real property,
9 annexation, minor boundary changes, and any adjustments in taxation of real property separately
10 classified and subject to statutory adjustments and reductions under chapters 10-4, 10-6, 10-6A,
11 and 10-6B, except § 10-6-31.4, only if assessed the same as property of equal value. A school
12 district may increase the revenue it receives from taxes on real property above the limit provided
13 by this section for taxes levied to pay the principal, interest, and redemption charges on any
14 bonds issued after January 1, 2009, which are subject to referendum; for scheduled payment
15 increases on bonds, and for a levy directed by the order of a court for the purpose of paying a
16 judgment against the school district. Any school district created or reorganized after January 1,
17 2009, is exempt from the limitation provided by this section for a period of two years
18 immediately following its creation.

19 For taxes payable in 2012, 2013, 2014, and 2015, the total amount of revenue payable from
20 the levy provided in this section may not increase more than the lesser of three percent or the
21 index factor, as defined in § 10-13-38, over the maximum amount of revenue that could have
22 been generated for the taxes payable in 2010 plus any unused index factor from the previous
23 years. After applying the index factor, a school district may increase the revenue payable from
24 taxes on real property above the limitations provided by this section by the percentage increase

1 of value resulting from any improvements or change in use of real property, annexation, minor
2 boundary changes, and any adjustments in taxation of real property separately classified and
3 subject to statutory adjustments and reductions under chapters 10-4, 10-6, 10-6A, and 10-6B,
4 except § 10-6-31.4, only if assessed the same as property of equal value. A school district may
5 increase the revenue it receives from taxes on real property above the limit provided by this
6 section for taxes levied to pay the principal, interest, and redemption charges on any bonds
7 issued after January 1, 2009, which are subject to referendum, scheduled payment increases on
8 bonds and for a levy directed by the order of a court for the purpose of paying a judgment
9 against such school district. Any school district created or reorganized after January 1, 2009, is
10 exempt from the limitation provided by this section for a period of two years immediately
11 following its creation.

12 For taxes payable in 2011, 2012, 2013, 2014, and 2015, the levy limitation of three dollars
13 per thousand dollars of taxable valuation does not apply to any school district.

14 Section 4. That § 13-37-16 be amended to read as follows:

15 13-37-16. For taxes payable in 1997, and each year thereafter, the school board shall levy
16 no more than one dollar and forty cents per thousand dollars of taxable valuation, as a special
17 levy in addition to all other levies authorized by law for the amount so determined to be
18 necessary, and such levy shall be spread against all of the taxable property of the district. The
19 proceeds derived from such levy shall constitute a school district special education fund of the
20 district for the payment of costs for the special education of all children in need of special
21 education or special education and related services who reside within the district pursuant to the
22 provisions of §§ 13-37-8.2 to 13-37-8.10, inclusive. The levy in this section shall be based on
23 valuations such that the median level of assessment represents 85% of market value as
24 determined by the Department of Revenue and Regulation. The total amount of taxes that would

1 be generated at the levy pursuant to this section shall be considered local effort. Money in the
2 special education fund may be expended for the purchase or lease of any assistive technology
3 that is directly related to special education and specified in a student's individualized education
4 plan. This section does not apply to real property improvements.

5 For taxes payable in 2011, the total amount of revenue payable from the levy provided in
6 this section may not increase more than the lesser of three percent or the index factor, as defined
7 in § 10-13-38, over the maximum amount of revenue that could have been generated for the
8 taxes payable in 2010. After applying the index factor, a school district may increase the revenue
9 payable from taxes on real property above the limitations provided by this section by the
10 percentage increase of value resulting from any improvements or change in use of real property,
11 annexation, minor boundary changes, and any adjustments in taxation of real property separately
12 classified and subject to statutory adjustments and reductions under chapters 10-4, 10-6, 10-6A,
13 and 10-6B, except § 10-6-31.4, only if assessed the same as property of equal value.

14 Any school district created or reorganized after January 1, 2009, is exempt from the
15 limitation provided by this section for a period of two years immediately following its creation.

16 For taxes payable in 2012, 2013, 2014, and 2015, the total amount of revenue payable from
17 the levy provided in this section may not increase more than the lesser of three percent or the
18 index factor, as defined in § 10-13-38, over the maximum amount of revenue that could have
19 been generated for the taxes payable in 2010 plus any unused index factor from the previous
20 years. After applying the index factor, a school district may increase the revenue payable from
21 taxes on real property above the limitations provided by this section by the percentage increase
22 of value resulting from any improvements or change in use of real property, annexation, minor
23 boundary changes, and any adjustments in taxation of real property separately classified and
24 subject to statutory adjustments and reductions under chapters 10-4, 10-6, 10-6A, and 10-6B.

1 except § 10-6-31.4, only if assessed the same as property of equal value.

2 For taxes payable in 2011, 2012, 2013, 2014, and 2015, the levy limitation of one dollar and
3 forty cents per thousand dollars of taxable valuation does not apply to any school district.

4 Section 5. That § 13-37-35.1 be amended to read as follows:

5 13-37-35.1. Terms used in chapter 13-37 mean:

6 (1) "Level one disability," a mild disability;

7 (2) "Level two disability," a mental retardation or emotional disorder;

8 (3) "Level three disability," hearing impairment, deafness, visual impairment, deaf-
9 blindness, orthopedic impairment, or traumatic brain injury;

10 (4) "Level four disability," autism;

11 (5) "Level five disability," multiple disabilities;

12 (5A) "Level six disability," prolonged assistance;

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

17 (7) "Local effort," shall be calculated for taxes payable in ~~2006 and thereafter using a~~
18 ~~special education levy of one dollar and twenty cents per one thousand dollars of~~
19 ~~valuation~~ 2011 and shall be the amount of revenue that could have been generated
20 for the taxes payable in 2010 using a special education levy of one dollar and twenty
21 cents per one thousand dollars of valuation increased by the lesser of three percent
22 or the index factor, as defined in § 10-13-38, plus a percentage increase of value
23 resulting from any improvements or change in use of real property, annexation, minor
24 boundary changes, and any adjustments in taxation of real property separately

1 classified and subject to statutory adjustments and reductions under chapters 10-4,
2 10-6, 10-6A, and 10-6B, except § 10-6-31.4, only if assessed the same as property
3 of equal value.

4 For taxes payable in 2012, 2013, 2014, and 2015, the total amount of local effort
5 shall be increased by the lesser of three percent or the index factor, established
6 pursuant to § 10-13-38 plus a percentage increase of value resulting from any
7 improvements or change in use of real property, annexation, minor boundary
8 changes, and any adjustments in taxation of real property separately classified and
9 subject to statutory adjustments and reductions under chapters 10-4, 10-6, 10-6A, and
10 10-6B, except § 10-6-31.4, only if assessed the same as property of equal value;

11 (8) "Allocation for a student with a level one disability," for the school fiscal year
12 beginning July 1, 2004, is \$ 3,533.13. For each school year thereafter, the allocation
13 for a student with a level one disability shall be the previous fiscal year's allocation
14 for such child increased by the lesser of the index factor or three percent;

15 (9) "Allocation for a student with a level two disability," for the school fiscal year
16 beginning July 1, 2004, is \$ 8,277.21. For each school year thereafter, the allocation
17 for a student with a level two disability shall be the previous fiscal year's allocation
18 for such child increased by the lesser of the index factor or three percent;

19 (10) "Allocation for a student with a level three disability," for the school fiscal year
20 beginning July 1, 2004, is \$ 12, 580.73. For each school year thereafter, the allocation
21 for a student with a level three disability shall be the previous fiscal year's allocation
22 for such child increased by the lesser of the index factor or three percent;

23 (11) "Allocation for a student with a level four disability," for the school fiscal year
24 beginning July 1, 2004, is \$ 12, 001.80. For each school year thereafter, the allocation

1 for a student with a level four disability shall be the previous fiscal year's allocation
2 for such child increased by the lesser of the index factor or three percent;

3 (12) "Allocation for a student with a level five disability," for the school fiscal year
4 beginning July 1, 2004, is \$ 15, 882.21. For each school year thereafter, the allocation
5 for a student with a level five disability shall be the previous fiscal year's allocation
6 for such child increased by the lesser of the index factor or three percent;

7 (12A) "Allocation for a student with a level six disability," for the school fiscal year
8 beginning July 2004, is \$8,122.23. For each school year thereafter, the allocation for
9 a student with a level six disability shall be the previous fiscal year's allocation for
10 such child increased by the lesser of the index factor or three percent;

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

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

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

23 (16) "Nonpublic average daily membership," the average number of children under age
24 sixteen who are approved for alternative instruction pursuant to § 13-27-2 during the

1 previous school year plus:

2 (a) For nonpublic schools located within the boundaries of a public school district
3 with an average daily membership of six hundred or more during the previous
4 school year, the average number of kindergarten through twelfth grade pupils
5 enrolled during the previous regular school year in all nonpublic schools
6 located within the boundaries of the public school district;

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

12 (17) "Special education average daily membership," average daily membership plus
13 nonpublic average daily membership;

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

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

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

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

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

1 student with a level four disability;

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

5 (f) Multiply the number of students having a level six disability as reported on the
6 child count for the previous school fiscal year by the allocation for a student
7 with a level six disability;

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

9 (19) "Effort factor," ~~the school district's special education tax levy in dollars per thousand~~
10 ~~divided by \$1.20 for taxes payable in 2011, 2012, 2013, 2014, and 2015, the effort~~
11 factor is the amount of taxes payable for the year divided by the amount of local
12 effort as calculated in subdivision (7). The maximum effort factor is 1.0.

13 Section 6. For taxes payable in 2011, 2012, 2013, 2014, and 2015, the provisions of sections
14 2 to 5, inclusive, of this Act that limit the maximum amount of revenue that may be generated
15 by the pension, capital outlay, and special education tax levies do not apply to any school
16 district that has less than a ten percent change in the total taxable valuation from the previous
17 year of all real property in the school district, not including the increase of value resulting from
18 any improvements or change in use of real property.

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

299P0490

HOUSE STATE AFFAIRS

ENGROSSED NO. **HB 1124** - 2/13/2008

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, Heineman, Krebs, McLaughlin, Rave, and Turbiville

1 FOR AN ACT ENTITLED, An Act to establish a classification system, an evaluation system,
2 and minimum annual salaries for certified teachers and school service specialists, and to
3 revise certain provisions relating to teacher tenure.

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

5 Section 1. There is hereby established a three-level classification system for certified
6 teachers and school service specialists that provides for a minimum annual salary for each
7 certified teacher or school service specialist within each level and requires a teacher or school
8 service specialist to demonstrate increased competency and professional growth in order to
9 progress from one level to the next within the system. For the purposes of this Act, a school
10 service specialist is a school counselor, school library media education specialist, school
11 psychologist, speech/language pathologist, school social worker, special education director, or
12 curriculum director.

13 Section 2. For the purposes of this Act, on July 1, 2009, any certified teacher with less than
14 three years of teaching experience or any school service specialist with less than three years of



1 experience providing direct services to students is classified at Level I, and any certified teacher
2 with three or more years of teaching experience or any school service specialist with three or
3 more years of experience providing direct services to students is classified at Level II.

4 On July 1, 2010, any certified teacher or school service specialist classified at Level II shall
5 receive a salary increase of one thousand dollars above the salary the teacher or school service
6 specialist would have otherwise received for the current school fiscal year.

7 On July 1, 2011, any certified teacher with six or more years of teaching experience who
8 meets the qualifications in subdivisions (1) and (3) of section 6 of this Act is classified at Level
9 III, and shall receive a salary increase of four thousand dollars above the salary the teacher
10 would have otherwise received for the current school fiscal year. On July 1, 2011, any school
11 service specialist with six or more years of experience providing direct services to students who
12 meets the qualifications in subdivisions (1) and (3) of section 8 of this Act is classified at Level
13 III, and shall receive a salary increase of four thousand dollars above the salary the school
14 service specialist would have otherwise received for the current school fiscal year.

15 Section 3. The minimum annual salary for any teacher or school service specialist at Level
16 I is as follows:

- 17 (1) For school fiscal year 2011, the minimum annual salary is thirty thousand dollars;
- 18 and
- 19 (2) For school fiscal year 2012 and thereafter, the minimum annual salary is the previous
20 school fiscal year's minimum annual salary increased by the index factor as defined
21 in subdivision 13-13-10.1(3).

22 Any teacher or school service specialist who progresses from Level I to Level II shall receive
23 a salary increase of one thousand dollars above the salary the teacher or school service specialist
24 would have otherwise received for the current school fiscal year. Any teacher or school service

1 specialist who progresses from Level II to Level III shall receive a salary increase of four
2 thousand dollars above the salary the teacher or school service specialist would have otherwise
3 received for the current school fiscal year.

4 Section 4. In order to advance from Level I to Level II, a teacher shall:

- 5 (1) Complete a mentoring or induction program approved by the Department of
6 Education;
- 7 (2) Demonstrate competency, as determined by an administrator trained pursuant to
8 section 13 of this Act, in professional growth and classroom achievement through
9 the annual evaluation process required in section 10 of this Act. Classroom
10 achievement may be measured using standardized achievement tests, classroom
11 exams, observations of student/teacher interactions, and other assessments;
- 12 (3) Complete three years of teaching at Level I; and
- 13 (4) Demonstrate the increased competency required for Level II by passing an
14 assessment approved by the Department of Education that measures the skills of
15 beginning teachers in a classroom setting.

16 When a teacher has completed the requirements established in this section, the local school
17 board shall submit documentation of that completion to the Department of Education. The
18 Department of Education shall then review the documentation and issue a certificate to any
19 teacher that the secretary of education determines has successfully completed the requirements
20 necessary to advance from Level I to Level II.

21 Section 5. At Level II, a teacher shall:

- 22 (1) Submit a professional development plan and complete the hours of coursework
23 necessary to maintain teacher certification pursuant to § 13-42-3; and
- 24 (2) Demonstrate competency, as determined by an administrator trained pursuant to

1 section 13 of this Act, in professional growth and classroom achievement through the
2 annual evaluation process required in section 10 of this Act. Classroom achievement
3 may be measured using standardized achievement tests, classroom exams,
4 observations of student/teacher interactions, and other assessments.

5 Section 6. Once a teacher progresses to Level II, the teacher may remain at that level or
6 progress to Level III. In order to progress to Level III, a teacher shall:

- 7 (1) Earn an advanced degree including a master's, specialist's, or doctorate or obtain a
8 national certification as approved by the Board of Education based on the criteria
9 established pursuant to section 15 of this Act;
- 10 (2) Complete at least three years of teaching at Level II; and
- 11 (3) Demonstrate competency, as determined by an administrator trained pursuant to
12 section 13 of this Act, in professional growth and classroom achievement through the
13 annual evaluation process required in section 10 of this Act. Classroom achievement
14 may be measured using standardized achievement tests, classroom exams,
15 observations of student/teacher interactions, and other assessments.

16 When a teacher has completed the requirements established in this section, the local school
17 board shall submit documentation of that completion to the Department of Education. The
18 Department of Education shall then review the documentation and issue a certificate to any
19 teacher that the secretary of education determines has successfully completed the requirements
20 necessary to advance from Level II to Level III.

21 Section 7. In order to advance from Level I to Level II, a school service specialist shall:

- 22 (1) Complete a mentoring or induction program approved by the Department of
23 Education; and
- 24 (2) Demonstrate competency, as determined by an administrator trained pursuant to

1 section 13 of this Act, through the annual evaluation process required in section 12
2 of this Act.

3 When a school service specialist has completed the requirements established in this section,
4 the local school board shall submit documentation of that completion to the Department of
5 Education. The Department of Education shall then review the documentation and issue a
6 certificate to any school service specialist that the secretary of education determines has
7 successfully completed the requirements necessary to advance from Level I to Level II.

8 Section 8. Once a school service specialist progresses to Level II, the school service
9 specialist may remain at that level or progress to Level III. In order to progress to Level III, a
10 school service specialist shall:

- 11 (1) Earn an advanced degree including a master's, specialist's, or doctorate or obtain a
12 national certification as approved by the Board of Education based on the criteria
13 established pursuant to section 15 of this Act;
- 14 (2) Complete at least three years of providing direct services to students at Level II; and
- 15 (3) Demonstrate competency, as determined by an administrator trained pursuant to
16 section 13 of this Act, through the annual evaluation process required in section 12
17 of this Act.

18 When a school service specialist has completed the requirements established in this section,
19 the local school board shall submit documentation of that completion to the Department of
20 Education. The Department of Education shall then review the documentation and issue a
21 certificate to any school service specialist that the secretary of education determines has
22 successfully completed the requirements necessary to advance from Level II to Level III.

23 Section 9. In addition to the minimum salaries established in this Act, any school district that
24 hires a teacher or school service specialist in an area of need shall pay that teacher or school

1 service specialist a signing bonus of two thousand five hundred dollars. The secretary of
2 education shall determine the areas of need for each school year based upon teacher or school
3 service specialist shortages, geography, and other factors and report those areas of need to each
4 school district.

5 Section 10. The school board of each local school district shall implement an evaluation
6 system for the school district's certified teachers that includes observation of each certified
7 teacher in the teacher's workplace.

8 Section 11. The certified teacher evaluation system shall:

- 9 (1) Include professional performance standards established pursuant to section 11 of this
10 Act;
- 11 (2) Require at least two observations during each school year for the evaluation of each
12 Level I teacher as defined in this Act;
- 13 (3) Require at least one observation during each school year for the evaluation of each
14 Level II or Level III teacher as defined in this Act who met the school district
15 performance standards during the previous school year; and
- 16 (4) Include an improvement plan for any certified teacher whose performance does not
17 meet the school district's performance standards, unless the teacher's performance is
18 just cause for termination pursuant to § 13-43-6.1.

19 Section 12. The school board of each local school district shall also implement an evaluation
20 system for the school district's school service specialists that includes annual evaluations of all
21 school service specialists within the district based upon the criteria established by the Board of
22 Education pursuant to section 15 of this Act.

23 Section 13. Each school district shall, at least once a year, provide training to the certified
24 teachers and school service specialists who are subject to the evaluation systems. The training

1 shall address the procedures of the evaluation systems, the standards that the school district uses
2 to evaluate the performance of its certified teachers and school service specialists, and any other
3 appropriate topics as determined by the school district. Each school district shall also provide
4 annual training to administrators on how to conduct the evaluations required in section 10 and
5 12 of this Act.

6 Section 14. The Department of Education shall promulgate rules pursuant to chapter 1-26
7 establishing the criteria the department will use to approve school district mentoring and
8 induction programs, establishing the assessment required of teachers progressing to Level II, and
9 providing for the performance standards that school districts will use to evaluate certified
10 teachers.

11 Section 15. The Board of Education shall promulgate rules pursuant to chapter 1-26
12 establishing the criteria the school districts will use to evaluate school service specialists and
13 to establish the criteria and the annual review process that the board will use to determine the
14 national certifications that will be recognized to allow a teacher or school service specialist to
15 progress to Level III.

16 Section 16. Beginning on July 1, 2010, any funds that a school district receives through the
17 teacher compensation assistance program established in § 13-3-73 shall be used to fund teachers
18 salaries according to the provisions of this Act.

19 Section 17. That § 13-43-6.1 be amended to read as follows:

20 13-43-6.1. A teacher may be terminated, by the school board, at any time for just cause,
21 including breach of contract, poor performance, incompetency, gross immorality, unprofessional
22 conduct, insubordination, neglect of duty, or the violation of any policy or regulation of the
23 school district. A school district may nonrenew a teacher who is ~~in or beyond the fourth~~
24 ~~consecutive term of employment as a teacher with the school district~~ classified at Level II or

1 Level III in the classification system established in section 1 of this Act pursuant to § 13-43-6.3
2 for just cause, including breach of contract, poor performance, incompetency, gross immorality,
3 unprofessional conduct, insubordination, neglect of duty, or the violation of any policy or
4 regulation of the school district.

5 Section 18. That § 13-43-6.3 be amended to read as follows:

6 13-43-6.3. Until a teacher is ~~in or beyond the fourth consecutive term of employment as a~~
7 ~~teacher with the school district~~ classified at Level II or Level III in the classification system
8 established in section 1 of this Act, a school board may or may not renew the teacher's contract.
9 The superintendent or chief executive officer shall give written notice of nonrenewal by April
10 fifteenth but is not required to give further process or a reason for nonrenewal.

11 After a teacher is ~~in or beyond the fourth consecutive term of employment as a teacher with~~
12 ~~the school district~~ classified at Level II or Level III in the classification system established in
13 section 1 of this Act, §§ 13-43-6.1 and 13-43-6.2 apply to any nonrenewal of the teacher's
14 contract. On or before April fifteenth, the superintendent or chief executive officer shall notify
15 the teacher and the school board in writing of the recommendation to not renew the teacher's
16 contract.

17 Acceptance by the teacher of an offer from the district to enter into a new contract with the
18 teacher shall be in the manner specified in the offer. Failure of the teacher to accept the offer in
19 the manner specified constitutes the termination of the existing contract between the teacher and
20 the district at the end of its term.

21 Section 19. This Act is effective on July 1, 2009.

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

193P0164

HOUSE LOCAL GOVERNMENT ENGROSSED NO. **HB 1151** - 2/12/2008

Introduced by: Representatives Steele, Brunner, Gillespie, Glenski, Hunt, Koistinen, Noem, Novstrup (Al), Novstrup (David), Olson (Russell), Rhoden, and Wick and Senators Greenfield, Albers, Duenwald, Hunhoff, Maher, Schmidt (Dennis), and Smidt (Orville)

1 FOR AN ACT ENTITLED, An Act to regulate the location and hours of operation of adult
2 oriented businesses.

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

4 Section 1. No adult oriented business established after June 30, 2008, may be located within
5 one-fourth mile of a child welfare agency, a private or public school, a public playground, a
6 public recreational facility, a residence, or a place of worship. For the purposes of this section,
7 measurements shall be made in a straight line in all directions, without regard to intervening
8 structures or objects, from the nearest point on the property line of a parcel containing an adult
9 oriented business to the nearest point on the property line of a parcel containing a child welfare
10 agency, a private or public school, a public playground, a public recreational facility, a
11 residence, or a place of worship. An adult oriented business lawfully operating in conformity
12 with this section does not violate this section if a child welfare agency, a private or public
13 school, a public playground, a public recreational facility, a residence, or a place of worship



1 subsequently locates within one-fourth mile of the adult oriented business. A violation of this
2 section is a Class 1 misdemeanor. Each day of violation constitutes a separate offense.

3 Section 2. No adult arcade, adult bookstore or video store, adult cabaret, adult motion
4 picture theater, adult theater, or nude model studio may remain open at any time between the
5 hours of 2:00 a.m. and 8:00 a.m. on Monday through Saturday and between the hours of 2:00
6 a.m. and 12:00 noon on Sunday. A violation of this section is a Class 1 misdemeanor. Each day
7 of violation constitutes a separate offense.

8 Section 3. Section 1 of this Act does not prohibit any county or municipality from enacting
9 and enforcing any ordinance that regulates the location of an adult oriented business.

10 Section 4. Section 2 of this Act does not prohibit any county or municipality from enacting
11 and enforcing any ordinance that regulates an adult arcade, adult bookstore or video store, adult
12 cabaret, adult motion picture theater, adult theater, or nude model studio.

13 Section 5. If there is reason to believe that a violation of section 1 of this Act is being
14 committed in any county or city, the state's attorney of the county shall, or a citizen of this state
15 who resides in the county or city in the citizen's own name may, maintain an action to abate and
16 prevent the violation and to enjoin perpetually any person who is committing the violation and
17 the owner, lessee, or agent of the building or place in or on which the violation is occurring from
18 directly or indirectly committing or permitting the violation.

19 Section 6. Terms used in this Act mean:

20 (1) "Adult arcade," any place to which the public is permitted or invited and in which
21 coin-operated or slug-operated or electronically, electrically, or mechanically
22 controlled still or motion picture machines, projectors, or other image producing
23 devices are maintained to show images involving specific sexual activities or specific
24 anatomical areas to persons in booths or viewing rooms;

- 1 (2) "Adult bookstore or video store," a commercial establishment that offers for sale or
2 rent any of the following as one of its principal business purposes:
- 3 (a) Books, magazines, periodicals, or other printed matter, photographs, films,
4 motion pictures, videocassettes or reproductions or slides, or other visual
5 representations that depict or describe specific sexual activities or specific
6 anatomical areas;
- 7 (b) Instruments, devices, or paraphernalia that are designed for use in connection
8 with specific sexual activities;
- 9 (3) "Adult cabaret," any nightclub, bar, restaurant, or other similar commercial
10 establishment that regularly features:
- 11 (a) Persons who appear in a state of nudity or seminudity;
- 12 (b) Live performances that are characterized by the exposure of specific
13 anatomical areas or specific sexual activities;
- 14 (c) Films, motion pictures, videocassettes, slides or other photographic
15 reproductions that are characterized by the depiction or description of specific
16 sexual activities or specific anatomical areas;
- 17 (4) "Adult motion picture theater," a commercial establishment in which, for any form
18 of consideration, films, motion pictures, videocassettes, slides, or other similar
19 photographic reproductions that are characterized by the depiction or description of
20 specific sexual activities or specific anatomical areas are predominantly shown;
- 21 (5) "Adult oriented business," any adult arcade, adult bookstore or video store, cabaret,
22 adult live entertainment establishment, adult motion picture theater, adult theater,
23 massage establishment that offers adult service, or nude model studios;
- 24 (6) "Adult service," dancing, serving food or beverages, modeling, posing, wrestling,

1 singing, reading, talking, listening, or other performances or activities conducted for
2 any consideration in an adult oriented business by a person who is nude or seminude
3 during all or part of the time that the person is providing the service;

4 (7) "Adult theater," a theater, concert hall, auditorium, or similar commercial
5 establishment that predominantly features persons who appear in a state of nudity or
6 who engage in live performances that are characterized by the exposure of specific
7 anatomical areas or specific sexual activities;

8 (8) "Massage establishment," an establishment in which a person, firm, association, or
9 corporation engages in or permits massage activities, including any method of
10 pressure on, friction against, stroking, kneading, rubbing, tapping, pounding,
11 vibrating, or stimulating of external soft parts of the body with the hands or with the
12 aid of any mechanical apparatus or electrical apparatus or appliance. This subdivision
13 does not apply to:

14 (a) Physicians who are licensed pursuant to chapter 36-4 or a podiatrist licensed
15 pursuant to chapter 36-8;

16 (b) Registered nurses or licensed practical nurses who are licensed pursuant to
17 chapter 36-9;

18 (c) Physician assistants who are licensed pursuant to chapter 36-4A or certified
19 nurse practitioners and certified nurse midwives who are licensed pursuant to
20 chapter 36-9A;

21 (d) Physical therapists licensed pursuant to chapter 36-10;

22 (e) Athletic trainers licensed pursuant to chapter 36-29;

23 (f) Massage therapists licensed pursuant to chapter 36-35;

24 (g) Chiropractors licensed pursuant to chapter 36-5;

1 (9) "Nude model studio," a place in which a person who appears in a state of nudity or
2 who displays specific anatomical areas is observed, sketched, drawn, painted,
3 sculptured, photographed, or otherwise depicted by other persons who pay money or
4 other consideration. The term, nude model studio, does not include a proprietary
5 school that is licensed by this state, a college, or a university that is supported entirely
6 or in part by taxation, a private college or university that maintains and operates
7 educational programs in which credits are transferable to a college or university that
8 is supported entirely or in part by taxation or a structure to which the following
9 apply:

10 (a) A sign is not visible from the exterior of the structure and no other advertising
11 appears indicating that a nude person is available for viewing;

12 (b) A student must enroll at least three days in advance of a class in order to
13 participate; and

14 (c) No more than one nude or seminude model is on the premises at any time;

15 (10) "Nude," "nudity," or "state of nudity," any of the following:

16 (a) The appearance of a human anus, genitals, or a female breast below a point
17 immediately above the top of the areola;

18 (b) A state of dress that fails to opaquely cover a human anus, genitals, or a
19 female breast below a point immediately above the top of the areola;

20 (11) "Place of worship," a structure where persons regularly assemble for worship,
21 ceremonies, rituals, and education relating to a particular form of religious belief and
22 which a reasonable person would conclude is a place of worship by reason of design,
23 signs, or architectural or other features;

24 (12) "Residence," a permanent dwelling place;

- 1 (13) "Seminude," a state of dress in which clothing covers no more than the genitals,
2 pubic region, and female breast below a point immediately above the top of the
3 areola, as well as portions of the body that are covered by supporting straps or
4 devices;
- 5 (14) "Specific anatomical areas," any of the following:
- 6 (a) A human anus, genitals, the pubic region, or a female breast below a point
7 immediately above the top of the areola that is less than completely and
8 opaquely covered;
- 9 (b) Male genitals in a discernibly turgid state even if completely and opaquely
10 covered;
- 11 (15) "Specific sexual activities," any of the following:
- 12 (a) Human genitals in a state of sexual stimulation or arousal;
- 13 (b) Sex acts, normal or perverted, actual or simulated, including acts of human
14 masturbation, sexual intercourse, oral copulation, or sodomy;
- 15 (c) Fondling or other erotic touching of the human genitals, pubic region,
16 buttocks, anus, or female breast; or
- 17 (d) Excretory functions as part of or in connection with any of the activities under
18 subsection (a), (b), or (c) of this subdivision.

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

831P0555

HOUSE EDUCATION ENGROSSED NO. **HB 1224** - 2/12/2008

Introduced by: Representatives Buckingham, Haverly, Heineman, Rausch, and Van Etten
and Senators Schmidt (Dennis), McNenny, and Napoli

1 FOR AN ACT ENTITLED, An Act to provide for the funding of certain reduced tuition
2 programs for veterans.

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

4 Section 1. That chapter 13-55 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Any veteran who is eligible for free tuition pursuant to § 13-55-2 who is enrolled, at a self-
7 supporting off-campus institution, in any undergraduate course under the control and
8 management of the Board of Regents not subsidized by the general fund is entitled to a benefit
9 of one hundred percent of the in-state resident tuition to be paid to the institution by the Board
10 of Regents. The veteran shall pay to the institution any self-support off-campus tuition charge
11 in excess of the in-state resident tuition.

12 Section 2. That § 13-55-23 be amended to read as follows:

13 13-55-23. ~~Notwithstanding any other provisions of law~~ Except as otherwise provided by
14 law, legislatively mandated exemptions, whether whole or partial, from the obligation to pay



- 1 tuition or other required fees apply only to classes, courses and instructional programs directly
- 2 supported by moneys appropriated from the general fund.

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

786P0619

HOUSE APPROPRIATIONS

ENGROSSED NO. **HB 1251** - 2/12/2008

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

Introduced by: Representatives Lust, Ahlers, Brunner, Dreyer, Gilson, Gosch, Haverly, Hills, Howie, Kirkeby, McLaughlin, Olson (Ryan), Pederson (Gordon), Turbiville, and Van Etten and Senators McCracken, Dempster, Garnos, Gray, Katus, Knudson, McNenny, Napoli, and Schmidt (Dennis)

1 FOR AN ACT ENTITLED, An Act to authorize the Board of Regents to acquire land for the
2 Higher Education Center--West River.

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

4 Section 1. The Board of Regents may accept a donation of a site comprising twelve acres
5 more or less for the higher education center--west river from within a tract described as follows:
6 A tract of land situated in Section 27, Township 2 North, Range 8 East of the Black Hills
7 Meridian, Rapid City, Pennington County, South Dakota, more fully described as follows:
8 Commencing at the Section ¼ Corner common to Sections 27 and 28, thence N67°26'47"W, a
9 distance of 586.94 feet, to the point of beginning. Thence, first course: N89°51'35"W, a distance
10 of 812.52 feet; Thence, second course: N00°08'25"E, a distance of 101.13 feet; Thence, third
11 course: N42°04'51"E, a distance of 200.57 feet; Thence, fourth course: N04°15'17"W, a distance
12 of 139.40 feet; Thence, fifth course: N28°03'24"W, a distance of 124.92 feet, to a point on the
13 southerly edge of Chicago and North Western Railroad Right-of-Way; Thence, sixth course:



1 along the southerly edge of said Railroad Right-of-way, curving to the left, on a curve with a
2 radius of 5779.58 feet, a delta angle of $07^{\circ}34'45''$, a length of 764.53 feet, a chord bearing of
3 $N58^{\circ}09'28''E$, and chord distance of 763.98 feet; Thence, seventh course: curving to the right,
4 on a curve with a radius of 462.00 feet, a delta angle of $03^{\circ}55'30''$, a length of 31.65 feet, a
5 chord bearing of $S36^{\circ}20'35''E$, and chord distance of 31.64 feet; Thence, eighth course: curving
6 to the left, on a curve with a radius of 55.00 feet, a delta angle of $77^{\circ}48'49''$, a length of 74.70
7 feet, a chord bearing of $S24^{\circ}34'19''E$, and chord distance of 69.09 feet; Thence, ninth course:
8 curving to the right, on a curve with a radius of 30.00 feet, a delta angle of $40^{\circ}07'48''$, a length
9 of 21.01 feet, a chord bearing of $S43^{\circ}24'49''E$, and chord distance of 20.59 feet; Thence, tenth
10 course: curving to the right, on a curve with a radius of 462.00 feet, a delta angle of $23^{\circ}29'20''$,
11 a length of 189.40 feet, a chord bearing of $S11^{\circ}36'15''E$, and chord distance of 188.08 feet;
12 Thence, eleventh course: $S00^{\circ}08'25''W$, a distance of 616.80 feet, to the point of beginning.

13 The authorization granted by this section is contingent upon the preparation of a plat of the
14 tract to be donated and delivery of an instrument of transfer that can be recorded.

15 Section 2. Notwithstanding the limitations of § 5-2-1, and using other funds at its disposal,
16 the Board of Regents may buy an option or a right of first refusal to purchase contiguous lands
17 comprising approximately nineteen acres, provided that no purchase or other acquisition may
18 take place without the prior authorization of the Legislature.

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

636P0033

HOUSE EDUCATION ENGROSSED NO. **HB 1257** - 2/12/2008

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

Introduced by: Representatives Wick, Dennert, Faehn, Hackl, Koistinen, Miles, Noem, Novstrup (Al), Peters, Steele, Van Etten, Weems, and Willadsen and Senators Maher, Duenwald, Greenfield, and McNenny

1 FOR AN ACT ENTITLED, An Act to revise certain procedures regarding real property
2 assessment and taxation and to repeal the nonagricultural acreage classification and certain
3 provisions regarding the assessment of property.

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

5 Section 1. That chapter 10-12 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 If the portion of the total taxable valuation for taxes payable in 2010, 2011, 2012, 2013,
8 2014, and 2015 of the state attributed to agricultural property increases by a greater percentage
9 than the other classifications of property on a statewide aggregate basis, the median level of
10 assessment as defined in §§ 10-12-31.1 and 10-13-37 shall be adjusted proportionally to
11 maintain the taxable valuation for taxes payable in 2009 base between agricultural property and
12 all other property. The taxable valuation base for all other classification of property shall be
13 adjusted by the percentage increase of value resulting from any improvements or change in use



1 of real property. Any adjustments in the median level of assessments made pursuant to §§ 10-
2 12-31.1 and 10-13-37 shall be based on maintaining the relationship between the total statewide
3 taxable valuation of agricultural property and the other classifications of property as adjusted
4 for improvements and change in use.

5 Section 2. That § 10-12-31.1 be amended to read as follows:

6 10-12-31.1. Notwithstanding other provision of law, when applying the levies for school
7 purposes for taxes payable in 2010 and each year thereafter, the county director of equalization
8 of each county shall adjust the level of assessment in that district so that the level of assessment
9 as indicated by the most recent assessment to sales ratio as provided for in § 10-11-55 in that
10 district are equal to eighty-five percent of market value and the most recent assessment to full
11 agricultural land value ratio as provided for in § 10-11-57 in that district are equal to ~~eighty-five~~
12 eighty-four percent of market value. The Department of Revenue and Regulation shall provide
13 the director of equalization of each county all of the factors of adjustment necessary for the
14 computations required in this section.

15 Section 3. That § 10-13-37 be amended to read as follows:

16 10-13-37. ~~Property~~ For taxes payable in 2010 and each year thereafter, property taxes shall
17 be levied on valuations where the median level of assessment represents eighty-five percent of
18 the market value as determined by the Department of Revenue and Regulation. However, for
19 any property classified as agricultural property, the director of equalization shall make the
20 necessary adjustments, so that the median level of assessment represents eighty-four percent of
21 the market value as determined by the Department of Revenue and Regulation.

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

24 Notwithstanding the provisions of § 10-6-74, if any nonagricultural or owner-occupied

1 property sells for more than one hundred fifty percent of its assessed value after November 1,
2 2007, the sale of such property shall be used to value other real property if the sale is an arms-
3 length transaction. However, for the taxable valuation for taxes payable in 2010, 2011, 2012,
4 2013, and 2014, no nonagricultural or owner-occupied property's valuation may increase more
5 than five percent per year because of the sales provided by this section. The sales of
6 nonagricultural and owner-occupied property may only be used in a sales ratio study as allowed
7 by this section.

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

10 Notwithstanding the provisions of § 10-6-74, if any agricultural property sells for more than
11 one hundred fifty percent of its assessed value after November 1, 2007, the sale of such property
12 shall be used to value other real property if the sale is an arms-length transaction. However, for
13 the taxable valuation for taxes payable in 2010, 2011, 2012, 2013, and 2014, no agricultural
14 property's valuation may increase more than ten percent per year because of the sales provided
15 by this section. The sales of agricultural property may only be used in a sales ratio study as
16 allowed by this section.

17 Section 6. That §§ 10-6-33.14 to 10-6-33.18, inclusive, be repealed.

18 Section 7. That § 10-6-31.3 be amended to read as follows:

19 10-6-31.3. For tax purposes, land is agricultural land if it meets two of the following three
20 criteria:

- 21 (1) At least thirty-three and one-third percent of the total family gross income of the
22 owner is derived from the pursuit of agriculture as defined in subdivision (2) of this
23 section or it is a state-owned public shooting area or a state-owned game production
24 area as identified in § 41-4-8 and it is owned and managed by the Department of

1 Game, Fish and Parks;

2 (2) Its principal use is devoted to the raising and harvesting of crops or timber or fruit
3 trees, the rearing, feeding, and management of farm livestock, poultry, fish, or
4 nursery stock, the production of bees and apiary products, or horticulture, all for
5 intended profit pursuant to subdivision (1) of this section. Agricultural real estate also
6 includes woodland, wasteland, and pasture land, but only if the land is held and
7 operated in conjunction with agricultural real estate as defined and it is under the
8 same ownership;

9 (3) It consists of not less than twenty acres of unplatted land or is a part of a contiguous
10 ownership of not less than eighty acres of unplatted land. The same acreage
11 specifications apply to platted land, excluding land platted as a subdivision, which
12 is in an unincorporated area. However, the board of county commissioners may
13 increase the minimum acre requirement up to one hundred sixty acres.

14 ~~However, for tax purposes, land is not agricultural land if the land is classified pursuant to~~
15 ~~§ 10-6-33.14 as a nonagricultural acreage.~~

16 Section 8. That § 13-11-10 be amended to read as follows:

17 13-11-10. In implementing the terms of § 13-11-9, a separate weighted average tax levy of
18 the receiving districts shall be calculated for agricultural property, ~~nonagricultural acreage~~
19 ~~property~~, owner-occupied single-family dwelling property, and for nonagricultural property for
20 each sending school district as follows:

21 (1) The levy per thousand dollars of taxable valuation for agricultural property for each
22 receiving school district shall be multiplied by the number of children from the
23 sending school district to whom the receiving school district is providing educational
24 services;

- 1 (2) Add together the products from subdivision (1) for each receiving school district;
- 2 (3) Divide the sum from subdivision (2) by the total number of students that the
- 3 contracting school district is sending to the receiving school districts pursuant to
- 4 § 13-15-1.3. The quotient is the weighted average tax levy per one thousand dollars
- 5 of taxable valuation for agricultural property;
- 6 (4) The weighted average tax levy per thousand dollars of taxable valuation for
- 7 ~~nonagricultural acreage~~, owner-occupied single-family dwellings, and nonagricultural
- 8 property shall be obtained by repeating the procedure outlined in subdivisions (1) to
- 9 (3), inclusive, for each class of property; and
- 10 (5) The sum of the levies assessed for all funds in the sending district shall be equal to
- 11 or greater than the sum of all levies for all funds in the receiving district.

12 The above calculations do not include students receiving educational services from an
 13 out-of-state school district nor the tax levy of any out-of-state school district.

14 Section 9. That § 10-12-42 be amended to read as follows:

15 10-12-42. For taxes payable in ~~2008~~ 2009 and each year thereafter, the levy for the general
 16 fund of a school district shall be as follows:

- 17 (1) The maximum tax levy shall be nine dollars and eleven cents per thousand dollars of
- 18 taxable valuation subject to the limitations on agricultural property as provided in
- 19 subdivision (2) of this section, and owner-occupied property as provided for in
- 20 subdivision (3) of this section, ~~and nonagricultural acreage property as provided for~~
- 21 ~~in subdivision (4) of this section;~~
- 22 (2) The maximum tax levy on agricultural property for such school district shall be two
- 23 dollars and seventy-one cents per thousand dollars of taxable valuation. If the
- 24 district's levies are less than the maximum levies as stated in this section, the levies

1 shall maintain the same proportion to each other as represented in the mathematical
2 relationship at the maximum levies; and

3 (3) The maximum tax levy for an owner-occupied single-family dwelling as defined in
4 § 10-13-40, for such school district may not exceed four dollars and twenty-six cents
5 per thousand dollars of taxable valuation. If the district's levies are less than the
6 maximum levies as stated in this section, the levies shall maintain the same
7 proportion to each other as represented in the mathematical relationship at the
8 maximum levies; and

9 ~~(4) The maximum tax levy on nonagricultural acreage property as defined in § 10-6-~~
10 ~~33.14, for such school district shall be three dollars and seventy-one cents per~~
11 ~~thousand dollars of taxable valuation. If the district's levies are less than the~~
12 ~~maximum levies as stated in this section, the levies shall maintain the same~~
13 ~~proportion to each other as represented in the mathematical relationship at the~~
14 ~~maximum levies.~~

15 All levies in this section shall be imposed on valuations where the median level of
16 assessment represents ~~eighty-five~~ the percent of market value as determined by the Department
17 of Revenue and Regulation pursuant to §§ 10-12-31.1 and 10-13-37. These valuations shall be
18 used for all school funding purposes. If the district has imposed an excess levy pursuant to § 10-
19 12-43, the levies shall maintain the same proportion to each other as represented in the
20 mathematical relationship at the maximum levies in this section. The school district may elect
21 to tax at less than the maximum amounts set forth in this section.

22 Section 10. That § 10-6-33.24 be amended to read as follows:

23 10-6-33.24. Notwithstanding the provisions of chapter 10-6, the board of county
24 commissioners may, by ordinance or resolution, require that any property classified as

1 agricultural land ~~may~~ within in the county shall be assessed based on its agricultural income
2 value if there are less than fifteen arms-length transactions of agricultural land during the three
3 ~~preceding assessment~~ years. The agricultural income value of agricultural land shall be
4 determined on the basis of the capitalized annual cash rent of the agricultural land. The
5 capitalized annual cash rent shall be based on data collected and analyzed pursuant to § 10-6-
6 33.25. ~~For the purposes of this section, arms-length transactions do not include any agricultural~~
7 ~~land sales subject to the provisions of § 10-6-33.14, 10-6-33.20, or 10-6-74.~~

8 Section 11. That § 10-6-33.25 be amended to read as follows:

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

19 The secretary of revenue and regulation may enter into a contract for the collection of cash
20 rent information by county. Cash rent information shall be adjusted by soil survey statistics, if
21 available, and pursuant to § 10-6-33.26.

22 Section 12. Any agricultural land, as defined in § 10-6-31.3, that is sold and the assessor
23 determines such agricultural land will have a change in use and will be transferred to another
24 classification of property, may not be used for the purpose of valuing agricultural land. The sale

1 of any agricultural land that is not used for purpose of valuing agricultural property pursuant to
2 this section may not be used in any sales ratio study.

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

4 13-37-16. For taxes payable in 1997, and each year thereafter, the school board shall levy
5 no more than one dollar and forty cents per thousand dollars of taxable valuation, as a special
6 levy in addition to all other levies authorized by law for the amount so determined to be
7 necessary, and such levy shall be spread against all of the taxable property of the district. The
8 proceeds derived from such levy shall constitute a school district special education fund of the
9 district for the payment of costs for the special education of all children in need of special
10 education or special education and related services who reside within the district pursuant to the
11 provisions of §§ 13-37-8.2 to 13-37-8.10, inclusive. ~~The levy in this section shall be based on~~
12 ~~valuations such that the median level of assessment represents 85% of market value as~~
13 ~~determined by the Department of Revenue and Regulation.~~ The total amount of taxes that would
14 be generated at the levy pursuant to this section shall be considered local effort. Money in the
15 special education fund may be expended for the purchase or lease of any assistive technology
16 that is directly related to special education and specified in a student's individualized education
17 plan. This section does not apply to real property improvements.

18 Section 14. That § 10-6-74 be repealed on July 1, 2013.

19 Section 15. The provisions of sections 1, 4, and 5 of this Act are repealed on July 1, 2015.

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

875P0708

HOUSE EDUCATION ENGROSSED NO. **HB 1262** - 2/12/2008

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

Introduced by: Representatives Buckingham, Heineman, McLaughlin, and Van Etten and
Senator Olson (Ed)

1 FOR AN ACT ENTITLED, An Act to establish a classification system, an evaluation system,
2 and minimum annual salaries for certified teachers and school service specialists, and to
3 repeal certain provisions relating to teacher tenure.

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

5 Section 1. There is hereby established a three-level classification system for certified
6 teachers and school service specialists that provides for a minimum annual salary for each
7 certified teacher or school service specialist within each level and requires a teacher or school
8 service specialist to demonstrate increased competency and professional growth in order to
9 progress from one level to the next within the system. For the purposes of this Act, a school
10 service specialist is a school counselor, school library media education specialist, school
11 psychologist, speech/language pathologist, school social worker, special education director, or
12 curriculum director.

13 Section 2. For the purposes of this Act, on July 1, 2009, any certified teacher with less than
14 three years of teaching experience or any school service specialist with less than three years of



1 experience providing direct services to students is classified at Level I. On July 1, 2009, any
2 certified teacher with three or more years of teaching experience or any school service specialist
3 with three or more years of experience providing direct services to students is classified at Level
4 II, and shall receive a salary increase of one thousand dollars above the salary the teacher or
5 school service specialist would have otherwise received for the current school fiscal year.

6 On July 1, 2010, any certified teacher with six or more years of teaching experience who
7 meets the qualifications in subdivisions (1) and (3) of section 6 of this Act is classified at Level
8 III, and shall receive a salary increase of four thousand dollars above the salary the teacher
9 would have otherwise received for the current school fiscal year. On July 1, 2010, any school
10 service specialist with six or more years of experience providing direct services to students who
11 meets the qualifications in subdivisions (1) and (3) of section 8 of this Act is classified at Level
12 III, and shall receive a salary increase of four thousand dollars above the salary the school
13 service specialist would have otherwise received for the current school fiscal year.

14 Section 3. The minimum annual salary for any teacher or school service specialist at Level
15 I is as follows:

- 16 (1) For school fiscal year 2010, the minimum annual salary is twenty-eight thousand
17 dollars;
- 18 (2) For school fiscal year 2011, the minimum annual salary is thirty thousand dollars;
- 19 (3) For school fiscal year 2012, the minimum annual salary is thirty-two thousand
20 dollars;
- 21 (4) For school fiscal year 2013, the minimum annual salary is thirty-four thousand five
22 hundred dollars; and
- 23 (5) For school fiscal year 2014, the minimum annual salary is thirty-six thousand five
24 hundred dollars; and

1 (6) For school fiscal year 2015 and thereafter, the minimum annual salary is thirty-nine
2 thousand dollars.

3 Any teacher or school service specialist who progresses from Level I to Level II shall receive
4 a salary increase of one thousand dollars above the salary the teacher or school service specialist
5 would have otherwise received for the current school fiscal year. Any teacher or school service
6 specialist who progresses from Level II to Level III shall receive a salary increase of four
7 thousand dollars above the salary the teacher or school service specialist would have otherwise
8 received for the current school fiscal year.

9 Section 4. In order to advance from Level I to Level II, a teacher shall:

- 10 (1) Complete a mentoring or induction program approved by the Department of
11 Education;
- 12 (2) Demonstrate competency, as determined by an administrator trained pursuant to
13 section 13 of this Act, in professional growth and classroom achievement through
14 the annual evaluation process required in section 10 of this Act. Classroom
15 achievement may be measured using standardized achievement tests, classroom
16 exams, student observations, and other assessments;
- 17 (3) Complete three years of teaching at Level I; and
- 18 (4) Demonstrate the increased competency required for Level II by passing an
19 assessment approved by the Department of Education that measures the skills of
20 beginning teachers in a classroom setting.

21 In order to maintain teacher certification pursuant to § 13-42-3, a Level I teacher shall
22 progress to Level II no later than the fifth year of teaching.

23 Section 5. At Level II, a teacher shall:

- 24 (1) Submit a professional development plan and complete the hours of coursework

1 necessary to maintain teacher certification pursuant to § 13-42-3; and

2 (2) Demonstrate competency, as determined by an administrator trained pursuant to
3 section 13 of this Act, in professional growth and classroom achievement through the
4 annual evaluation process required in section 10 of this Act. Classroom achievement
5 may be measured using standardized achievement tests, classroom exams, student
6 observations, and other assessments.

7 Section 6. Once a teacher progresses to Level II, the teacher may remain at that level or
8 progress to Level III. In order to progress to Level III, a teacher shall:

9 (1) Earn an advanced degree including a master's, specialist's, or doctorate or obtain a
10 national certification as approved by the Board of Education based on the criteria
11 established pursuant to section 15 of this Act;

12 (2) Complete at least three years of teaching at Level II; and

13 (3) Demonstrate competency, as determined by an administrator trained pursuant to
14 section 13 of this Act, in professional growth and classroom achievement through the
15 annual evaluation process required in section 10 of this Act. Classroom achievement
16 may be measured using standardized achievement tests, classroom exams, student
17 observations, and other assessments.

18 Section 7. In order to advance from Level I to Level II, a school service specialist shall:

19 (1) Complete a mentoring or induction program approved by the Department of
20 Education; and

21 (2) Demonstrate competency, as determined by an administrator trained pursuant to
22 section 13 of this Act, through the annual evaluation process required in section 12
23 of this Act.

24 Section 8. Once a school service specialist progresses to Level II, the school service

1 specialist may remain at that level or progress to Level III. In order to progress to Level III, a
2 school service specialist shall:

- 3 (1) Earn an advanced degree including a master's, specialist's, or doctorate or obtain a
4 national certification as approved by the Board of Education based on the criteria
5 established pursuant to section 15 of this Act;
- 6 (2) Complete at least three years of providing direct services to students at Level II; and
- 7 (3) Demonstrate competency, as determined by an administrator trained pursuant to
8 section 13 of this Act, through the annual evaluation process required in section 12
9 of this Act.

10 Section 9. In addition to the minimum salaries established in this Act, any school district that
11 hires a teacher or school service specialist in an area of need shall pay that teacher or school
12 service specialist a signing bonus of five thousand dollars. The secretary of education shall
13 determine the areas of need for each school year based upon teacher or school service specialist
14 shortages, geography, and other factors and report those areas of need to each school district.

15 Section 10. The school board of each local school district shall implement an evaluation
16 system for the school district's certified teachers that includes observation of each certified
17 teacher in the teacher's workplace.

18 Section 11. The certified teacher evaluation system shall:

- 19 (1) Include professional performance standards established pursuant to section 11 of this
20 Act;
- 21 (2) Require at least two observations during each school year for the evaluation of each
22 Level I teacher as defined in this Act;
- 23 (3) Require at least one observation during each school year for the evaluation of each
24 Level II or Level III teacher as defined in this Act who met the school district

1 performance standards during the previous school year; and

2 (4) Include an improvement plan for any certified teacher whose performance does not
3 meet the school district's performance standards, unless the teacher's performance is
4 just cause for termination pursuant to § 13-43-6.1.

5 Section 12. The school board of each local school district shall also implement an evaluation
6 system for the school district's school service specialists that includes annual evaluations of all
7 school service specialists within the district based upon the criteria established by the Board of
8 Education pursuant to section 15 of this Act.

9 Section 13. Each school district shall, at least once a year, provide training to the certified
10 teachers and school service specialists who are subject to the evaluation systems. The training
11 shall address the procedures of the evaluation systems, the standards that the school district uses
12 to evaluate the performance of its certified teachers and school service specialists, and any other
13 appropriate topics as determined by the school district. Each school district shall also provide
14 annual training to administrators on how to conduct the evaluations required in section 10 and
15 12 of this Act.

16 Section 14. The Department of Education shall promulgate rules pursuant to chapter 1-26
17 establishing the criteria the department will use to approve school district mentoring and
18 induction programs, establishing the assessment required of teachers progressing to Level II, and
19 providing for the performance standards that school districts will use to evaluate certified
20 teachers.

21 Section 15. The Board of Education shall promulgate rules pursuant to chapter 1-26
22 establishing the criteria the school districts will use to evaluate school service specialists and
23 to establish the criteria and the annual review process that the board will use to determine the
24 national certifications that will be recognized to allow a teacher or school service specialist to

1 progress to Level III.

2 Section 16. That § 13-43-6.1 be amended to read as follows:

3 13-43-6.1. A teacher may be terminated, by the school board, at any time for just cause,
4 including breach of contract, poor performance, incompetency, gross immorality, unprofessional
5 conduct, insubordination, neglect of duty, or the violation of any policy or regulation of the
6 school district. ~~A school district may nonrenew a teacher who is in or beyond the fourth
7 consecutive term of employment as a teacher with the school district pursuant to § 13-43-6.3
8 for just cause, including breach of contract, poor performance, incompetency, gross immorality,
9 unprofessional conduct, insubordination, neglect of duty, or the violation of any policy or
10 regulation of the school district.~~

11 Section 17. That § 13-43-6.2 be repealed.

12 ~~13-43-6.2. If nonrenewal of a teacher is contemplated under § 13-43-6.1, the superintendent
13 or chief executive officer shall give written notice of an intention to recommend nonrenewal
14 to the teacher and the school board; a written statement of the reasons for the recommendation;
15 access to the employment records of the teacher; the opportunity to the teacher for a hearing
16 before the school board to present reasons in person or in writing why the nonrenewal should
17 not occur; and the opportunity to be represented. The teacher shall request the hearing as
18 provided in § 13-43-6.9. The school board shall conduct the hearing not sooner than fourteen
19 days, nor later than forty-five days, after receipt of the teacher's request for hearing. The parties
20 may waive the time limitations provided for in this section.~~

21 Section 18. That § 13-43-6.3 be amended to read as follows:

22 13-43-6.3. ~~Until a teacher is in or beyond the fourth consecutive term of employment as a
23 teacher with the school district, a school board may or may not renew the teacher's contract. The
24 superintendent or chief executive officer shall give written notice of nonrenewal by April~~

1 ~~fifteenth but is not required to give further process or a reason for nonrenewal.~~

2 ~~—After a teacher is in or beyond the fourth consecutive term of employment as a teacher with~~
3 ~~the school district, §§ 13-43-6.1 and 13-43-6.2 apply to any nonrenewal of the teacher's contract.~~

4 On or before April fifteenth, the superintendent or chief executive officer shall notify the teacher
5 and the school board in writing of the recommendation to not renew the teacher's contract.

6 Acceptance by the teacher of an offer from the district to enter into a new contract with the
7 teacher shall be in the manner specified in the offer. Failure of the teacher to accept the offer in
8 the manner specified constitutes the termination of the existing contract between the teacher and
9 the district at the end of its term.

10 Section 19. That § 13-43-6.4 be repealed.

11 ~~—13-43-6.4. Notwithstanding §§ 13-43-6.1 to 13-43-6.3, inclusive, if a teacher's contract is~~
12 ~~not renewed due to a reduction in staff, only written notice is required, which shall be provided~~
13 ~~by the school board to the teacher by April fifteenth.~~

14 Section 20. That § 13-43-6.6 be amended to read as follows:

15 13-43-6.6. Although a collective bargaining agreement between a district and its teachers
16 may set forth specific additional grounds for termination or set forth provisions as to the
17 procedure or notice, no agreement may limit the district's right to terminate a teacher for the
18 grounds set forth in §§ 13-43-6.1 to 13-43-6.3, inclusive. No agreement may limit the protection
19 afforded to a teacher under § 13-43-6.5.

20 Section 21. That § 13-43-6.8 be amended to read as follows:

21 13-43-6.8. Delivery of any notification to the teacher pursuant to § ~~13-43-6.2~~ or 13-43-6.7
22 shall be established by certified mail with return receipt signed by the teacher, personal delivery
23 evidenced by a receipt signed by the teacher, or affidavit of personal service made by a person
24 authorized to effect personal service.

1 Section 22. That § 13-43-6.9 be amended to read as follows:

2 13-43-6.9. Delivery of a written request for a hearing provided by § ~~13-43-6.2~~ or 13-43-6.7
3 shall be established by certified mail with return receipt signed by the superintendent, chief
4 executive officer, or board member, or a person authorized to accept certified mail for the
5 district, or personal delivery evidenced by a receipt signed by the superintendent, chief executive
6 officer, or board member, or an affidavit of personal service upon the district made by a person
7 authorized to effect personal service no later than fifteen days after receipt of the notice by the
8 teacher.

9 Section 23. This Act is effective on July 1, 2009.

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

293P0727

HOUSE AGRICULTURE AND NATURAL RESOURCES

ENGROSSED NO. **HB 1314** - 2/12/2008

Introduced by: Representatives Olson (Ryan) and Rounds and Senator Gray

1 FOR AN ACT ENTITLED, An Act to authorize the Department of Game, Fish and Parks to sell
2 and convey real and personal property located at the Spring Creek Recreation Area and to
3 declare an emergency.

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

5 Section 1. Notwithstanding the provisions of chapters 5-9, 5-23, and 5-24, the Department
6 of Game, Fish and Parks may sell its interest in the structures and personal property used in the
7 operation of the Spring Creek marina at the Spring Creek Recreation Area, Hughes County,
8 South Dakota, to the concessionaire selected pursuant to the rules promulgated by the Game,
9 Fish and Parks Commission.

10 Section 2. The property set forth in section 1 of this Act shall be sold for no less than the fair
11 market value as determined by an appraisal.

12 Section 3. The proceeds of the sale shall be deposited in the parks and recreation revolving
13 fund.

14 Section 4. Whereas, this Act is necessary for the support of the state government and its
15 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in



- 1 full force and effect from and after its passage and approval.
- 2 Section 5. This Act is repealed on July 1, 2009.

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

400P0149

SENATE ENGROSSED NO. **SB 2** - 1/16/2008

Introduced by: The Committee on Local Government at the request of the Office of the
Secretary of State

1 FOR AN ACT ENTITLED, An Act to prohibit public access to birth dates of voters contained
2 in the master voter registration file.

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

4 Section 1. That § 12-4-9 be amended to read as follows:

5 12-4-9. The county auditor shall maintain and safeguard a file of voters in computer format
6 that contains each person registered in each voting precinct within the county. This file shall be
7 known as the master registration file and shall be, at all times during office hours, open to public
8 inspection. However, public access to social security numbers and driver license numbers
9 contained in the master registration file shall be ~~restricted~~ prohibited. Public access to each
10 voter's day and month of birth shall be restricted. Public access to the voter's year of birth is not
11 restricted. The master registration file shall contain all information from each voter's registration
12 card except the description of the location of the voter's residence. The master registration file
13 shall also include the date of the last election the voter has voted in and when the voter's
14 information was last updated. The master registration file may also contain additional voter
15 history information.



State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

400P0143

SENATE LOCAL GOVERNMENT ENGROSSED NO. **SB 3** - 1/14/2008

Introduced by: The Committee on Local Government at the request of the Office of the
Secretary of State

1 FOR AN ACT ENTITLED, An Act to revise certain procedures concerning elections for special
2 districts and to declare an emergency.

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

4 Section 1. That § 6-16-4 be amended to read as follows:

5 6-16-4. The county auditor shall publish the notice of the voter registration deadline at least
6 once each week for two consecutive weeks, the last publication to be not less than ~~twenty-five~~
7 twenty-four nor more than thirty days prior to the election. The auditor shall publish notices of
8 election at least once each week for two consecutive weeks, the last publication to be not less
9 than four nor more than ten days before the election in at least one legal newspaper of general
10 circulation in the proposed district.

11 Section 2. That § 6-16-5 be amended to read as follows:

12 6-16-5. ~~The~~ If the proposed district contains less than one thousand eligible voters as defined
13 in § 6-16-6, the county auditor shall set a date, time, and location for a meeting to be held within
14 the district to conduct an election on the question of formation of the special district. The date



1 may not be more than sixty days after the appropriate board declares that the application for
2 incorporation is valid. The auditor shall appoint three judges of election, one of whom shall
3 serve as the superintendent, to conduct the election. The vote upon the question of incorporation
4 shall be by ballot which conforms to a ballot for a statewide question except that the statement
5 required to be printed on the ballot shall be prepared by the state's attorney. After the vote is cast
6 and counted, the judges shall prepare a certification showing the whole number of ballots cast,
7 together with the number voting for and the number voting against incorporation, and shall
8 return the certification to the county auditor. If a majority of the votes cast on the question of
9 formation is in favor, an election shall be conducted by those present at the same meeting to
10 elect the initial board of directors or trustees.

11 Section 3. That § 6-16-8 be amended to read as follows:

12 6-16-8. The State Board of Elections may promulgate rules pursuant to chapter 1-26
13 concerning:

- 14 (1) The petition form; ~~and~~ for the formation of a special district;
15 (2) The notice of election; and
16 (3) The nominating petition.

17 The petition form and notice of election shall include a description of the proposed district
18 boundaries.

19 Section 4. That chapter 6-16 be amended by adding thereto a NEW SECTION to read as
20 follows:

21 If the proposed district contains one thousand or more eligible voters as defined in § 6-16-6,
22 the county auditor shall set a date for an election to be held within the district on the question
23 of formation of the special district. The date may not be more than sixty days after the
24 appropriate board declares that the application for incorporation is valid. The election shall be

1 conducted pursuant to Title 12. The vote upon the question of incorporation shall be by ballot
2 which conforms to a ballot for a statewide question except that the statement required to be
3 printed on the ballot shall be prepared by the state's attorney. The election shall be canvassed
4 by the county commission.

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

7 If a majority of the votes cast in an election conducted pursuant to section 4 of this Act is
8 in favor on the question of formation of the special district, an election shall be conducted by
9 the county auditor within sixty days after the official canvass to elect the initial board of
10 directors or trustees. The election shall be conducted pursuant to Title 12. The county auditor
11 shall publish a notice of vacancy no later than fifty days prior to the election. Circulation of
12 nominating petitions may begin upon completion of the official canvass of the election to form
13 the district. Nominating petitions shall be filed with the county auditor by 5:00 p.m. at least
14 thirty days before the election. The nominating petitions shall contain signatures of at least
15 twenty-five registered voters in the district. Absentee ballots shall be made available to the
16 voters no later than twenty days before the date of election. The election shall be canvassed by
17 the county commission.

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

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

400P0369

SENATE ENGROSSED NO. **SB 51** - 1/28/2008

Introduced by: The Committee on Health and Human Services at the request of the
Department of Human Services

1 FOR AN ACT ENTITLED, An Act to revise certain terminology, licensing requirements, and
2 procedures regarding the Board of Examiners of Psychologists.

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

4 Section 1. That § 36-27A-1 be amended to read as follows:

5 36-27A-1. Terms used in this chapter, unless the context otherwise requires, mean:

6 (1) "Board," the Board of Examiners of Psychologists established under this chapter;

7 (2) "Program in psychology," a doctoral program, including a doctor of philosophy
8 degree (Ph. D.), a doctor of psychology degree (Psy. D.) and a doctor of education
9 degree (Ed. D.), for training in psychology that meets all of the following criteria:

10 (a) The program offers doctoral education and training in a regionally accredited
11 institution of higher education in the United States, or, in the case of Canadian
12 programs, the institution is recognized by the Association of Universities and
13 Colleges of Canada as a member in good standing;

14 (b) The program, wherever it may be administratively housed, is identified as a
15 psychology program ~~or primarily psychological in nature~~ as certified by the



- 1 educational institution. The board may review the institutional catalogs and
2 brochures to determine the psychological nature of the program;
- 3 (c) The program must be a recognizable, coherent organizational entity within the
4 institution;
- 5 (d) There must be a clear authority and primary responsibility for the core and
6 specialty areas whether or not the program cuts across administrative lines;
- 7 (e) The program must be an integrated, organized sequence of study;
- 8 (f) There must be an identifiable psychology faculty;
- 9 (g) The program must have an identifiable body of students who are matriculated
10 in that program for the purpose of receiving a degree;
- 11 (h) The program must include supervised practicum, ~~internship~~, field or laboratory
12 training ~~appropriate to the practice of in psychology, and a supervised~~
13 psychology internship pursuant to ARSD 20:60:08:01;
- 14 (i) The curriculum must encompass a minimum of three academic years of full
15 time graduate study and completion of a psychology internship prior to
16 awarding the doctoral degree. At least two of the three academic training years
17 must be with the institution from which the doctoral degree is granted, and at
18 least one year of which must be in full time residence at that same institution.
- 19 In addition to instruction in scientific and professional ethics and standards,
20 research design and methodology, statistics and psychometrics, the core
21 program shall require each student to demonstrate competence in each of the
22 four following substantive areas. This may be met by including a minimum of
23 three or more graduate semester hours (five or more graduate quarter hours)
24 in these four substantive content areas:

- 1 (i) Biological ~~bases~~ aspects of behavior: physiological psychology,
2 comparative psychology, neuro-psychology, ~~sensation and perception,~~
3 psychopharmacology, psychophysics;
- 4 (ii) Cognitive-affective ~~bases~~ aspects of behavior: learning, thinking,
5 motivation, emotion;
- 6 (iii) Social ~~bases~~ aspects of behavior: social psychology, ~~group processes~~
7 community psychology, organizational and systems theory, minority
8 group studies;
- 9 (iv) Individual differences: personality theory, human development,
10 ~~abnormal psychology~~ psychopathology, cultural diversity.

11 In addition to these criteria, the programs in ~~psychology~~ shall include course
12 requirements in specialty areas of psychology.

- 13 (3) "Psychological procedures," include but are not restricted to the application of
14 principles, methods or procedures of understanding, predicting or influencing
15 behavior, such as the principles pertaining to learning, conditioning, perception,
16 motivation, thinking, emotions or interpersonal relationships; the methods or
17 procedures of verbal interaction, interviewing, counseling, behavior modification,
18 environmental manipulation, group process, psychotherapy, biofeedback or hypnosis;
19 and the methods or procedures of administering or interpreting tests of mental
20 abilities, aptitudes, interests, attitudes, personality characteristics, emotions or
21 motivation;
- 22 (4) "Psychologist," a person licensed under this chapter in the practice of psychology
23 who holds himself or herself out to the public by any title or description of services
24 which uses the words psychological, psychology, psychologist, psychometrist, or any

1 derivations thereof;

2 (5) "The practice of psychology," the observation, description, evaluation, interpretation,
3 and modification of human behavior by the application of psychological principles,
4 methods, and procedures for the purpose of preventing or eliminating symptomatic,
5 maladaptive, or undesired behavior and of enhancing interpersonal relationships,
6 work and life adjustment, personal effectiveness, behavioral health, and mental
7 health. The term includes psychological testing and the evaluation or assessment of
8 personal characteristics, such as intelligence, personality, abilities, interests,
9 aptitudes, and neuropsychological functioning; individual, marital, family, or group
10 counseling; psychotherapy and other therapeutic techniques based on psychological
11 principles; diagnosis and treatment of mental and emotional disorders or disabilities,
12 compulsive disorders, disorders of habit or conduct as well as of the psychological
13 aspects of physical illness, accident, injury, or disability; and psychoeducational
14 evaluation, therapy, remediation, and consultation. The practice of psychology is the
15 rendering of psychological services to individuals, families, groups, and the public
16 and is without regard to whether payment is received for services rendered.

17 Section 2. That § 36-27A-2 be amended to read as follows:

18 36-27A-2. The provisions of this chapter do not apply to the following persons:

- 19 (1) Employees of a regionally accredited academic institution while performing their
20 teaching, training or research duties;
- 21 (2) Employees working in public or private nonprofit organizations or institutions if they
22 are being supervised by a licensed psychologist. The nature of an acceptable
23 supervisory relationship shall be specified by the Board of Examiners of
24 Psychologists in rules promulgated pursuant to chapter 1-26;

- 1 (3) Students of psychology, ~~psychological~~ psychology interns or persons preparing for
2 the practice of psychology ~~in a training institution or facility approved by the board,~~
3 if they are designated by the title ~~psychological~~ psychology trainee, psychology
4 intern, or similar title which clearly indicates their training status. Persons engaged
5 in obtaining their one year of supervised postdoctoral psychology practice are also
6 exempt;
- 7 (4) Persons who are not residents of this state, and who have not established offices in
8 this state, who render psychological services in this state for a period which does not
9 exceed an aggregate of more than twenty days during any one year, if they are
10 authorized under the laws of the state or country of their residence to perform these
11 activities and services. If a provider exceeds ten consecutive days of practice in this
12 state in any calendar year ~~he~~ the provider shall report to the board, in writing, the
13 nature and extent of ~~his~~ the provider's practice in this state;
- 14 (5) Persons consulting in the specialty areas of experimental psychology,
15 industrial/organizational psychology, developmental psychology, social psychology,
16 human factors psychology, and research design. ~~Individuals~~ Persons, who represent
17 themselves as consulting in these specialty areas, ~~must~~ shall notify the board of the
18 general nature of their activities, unless they are otherwise exempted by this section;
- 19 (6) School psychologists and school psychological examiners certified by the division
20 of education services and resources practicing and functioning within the scope of
21 their employment if they use the title certified school psychologist or school
22 psychological examiner;
- 23 (7) Qualified physicians, surgeons, dentists, osteopaths, optometrists, chiropractors,
24 podiatrists, registered nurses, attorneys, court employees, marriage counselors, family

1 counselors, members of the clergy, mental health counselors, school counselors,
 2 rehabilitation counselors, employment counselors, guidance counselors ~~or~~, social
 3 workers, or licensed professional counselors doing work within the standards and
 4 ethics of their respective professions if they do not hold themselves out to the public
 5 by any title incorporating the term psychology; or

6 (8) Employers in the normal course of evaluating and assessing the skills, aptitudes, and
 7 interests of employees and job applicants.

8 Section 3. That § 36-27A-8 be amended to read as follows:

9 36-27A-8. ~~The initial Board of Examiners of Psychologists shall meet at Pierre, South~~
 10 ~~Dakota, within one month after appointment and elect a president, vice president, and a~~
 11 ~~secretary from its members. Thereafter the~~ The board shall elect officers annually. The board
 12 shall meet at least once a year at a place and time determined by the president of the board. The
 13 board secretary ~~of the board shall be~~ is responsible for taking and keeping the minutes of all
 14 board meetings.

15 Section 4. That § 36-27A-11 be amended to read as follows:

16 36-27A-11. A psychologist licensed by another state, or by a province of Canada, may
 17 practice within this state for a maximum ~~period~~ of six months, during which time ~~his~~ the
 18 psychologist's credentials ~~must~~ shall be reviewed and ~~his~~ the psychologist's application for
 19 licensing accepted or denied. Within thirty calendar days after the commencement of ~~his~~ the
 20 psychologist's practice in this state, ~~he~~ the psychologist shall apply to the Board of Examiners
 21 of Psychologists for licensing. The board, upon application and payment of the license fee, shall
 22 license any ~~individual person~~ who is licensed by any other country, state, territory or possession
 23 of the United States, if the license was issued under the minimum requirements of this chapter
 24 and who has practiced at least five years in such jurisdiction, and who does not have a complaint

1 pending with such state or province, or any other jurisdiction. The application shall include a
2 consent by the applicant for the release of information by all prior jurisdictions where licensed
3 of all information relative to the applicant, including any disciplinary proceedings even if, by
4 agreement or otherwise, the proceedings are confidential.

5 Section 5. That § 36-27A-12 be amended to read as follows:

6 36-27A-12. The ~~Board of Examiners of Psychologists~~ board shall issue a license as a
7 psychologist to an applicant who:

8 (1) Has a doctoral degree from a regionally accredited university or ~~college in a program~~
9 in professional school of psychology, or is recognized by the Association of
10 Universities and Colleges of Canada as a member in good standing; and

11 (2) Has passed ~~an~~ any examination specified by the board for this purpose; ~~and~~

12 (3) Has had a supervised ~~psychological~~ psychology internship amounting to not less than
13 one thousand eight hundred hours in duration over a period of not more than two
14 consecutive calendar years ~~and one year of postdoctoral psychological experience.~~

15 ~~— The nature of an acceptable supervised psychological internship shall be specified by the~~
16 ~~board in rules promulgated pursuant to chapter 1-26. The board shall specify, by rules~~
17 promulgated pursuant to chapter 1-26, the nature of an acceptable supervised psychology
18 internship;

19 (4) Has had one year of supervised postdoctoral psychology practice. The board shall
20 specify, by rules promulgated pursuant to chapter 1-26, the nature of an acceptable
21 postdoctoral year of supervised psychology practice; and

22 (5) Has not been convicted of a felony or a misdemeanor involving moral turpitude as
23 defined in subdivision 22-1-2(25).

24 Section 6. That § 36-27A-12.1 be amended to read as follows:

1 36-27A-12.1. The ~~Board of Examiners of Psychologists~~ board may issue a provisional
2 license not to exceed twelve months in duration to an applicant who is completing the one-year
3 of supervised postdoctoral psychological experience psychology practice if the applicant has
4 satisfied the requirements of ~~subdivisions~~ subdivision 36-27A-12(1) and (2), passed a written
5 national standardized examination, and has completed the supervised ~~psychological~~ psychology
6 internship as specified in subdivision 36-27A-12(3).

7 Section 7. That § 36-27A-22 be amended to read as follows:

8 36-27A-22. The ~~Board of Examiners of Psychologists~~ board shall hold examinations at least
9 semiannually at a place designated by the board. The type of ~~examination~~ examinations,
10 including a national standardized examination, required shall be determined by the board.

11 Section 8. That § 36-27A-28 be amended to read as follows:

12 36-27A-28. The ~~license of a psychologist may be revoked or suspended or denied upon any~~
13 ~~of board may suspend or revoke the license of a psychologist or require remediation or impose~~
14 other sanctions on a psychologist, may deny licensure to any applicant, or require remediation
15 prior to the issuance of a license, upon the following grounds:

- 16 (1) The licensee is guilty of fraud or deceit in ~~his~~ the licensee's admission to practice or
17 in the practice of psychology, or an applicant for licensure is guilty of fraud or deceit
18 in the applicant's attempted admission to practice psychology;
- 19 (2) The licensee or applicant for licensure has been convicted of a felony or a serious
20 crime during the past five years. ~~"Felony"~~ The term, felony, means an offense which,
21 if committed in South Dakota, would be a felony under South Dakota law. The term,
22 serious crime, means a felony or a lesser crime involving moral turpitude as defined
23 in subdivision 22-1-2(25);
- 24 (3) The licensee or applicant for licensure is or has been engaged in the practice of

- 1 psychology under a false or assumed name and has not registered that name pursuant
2 to chapter 37-11, or is impersonating another practitioner of a like or different name;
- 3 (4) The licensee or applicant for licensure is using intoxicating liquors, narcotics or
4 stimulants to such an extent as to impede ~~him~~ the licensee or applicant from the
5 performance of ~~his~~ the licensee's or applicant's professional duties as a psychologist;
- 6 (5) The physical or mental condition of the licensee or applicant for licensure is
7 determined to be such as to jeopardize or endanger those who seek the professional
8 services of the licensee or applicant. By a majority vote of the entire ~~Board of~~
9 ~~Examiners of Psychologists~~ board, the board may demand a physical or mental
10 examination of a licensee or applicant for licensure. The failure to submit to the
11 examination is immediate grounds for the suspension of the licensee's license or
12 grounds for denial of a license to an applicant for licensure;
- 13 (6) The licensee or applicant for licensure has been found in violation of the code of
14 ethics adopted by the board;
- 15 (7) The licensee has obtained or attempted to obtain a license, certificate or renewal
16 thereof by bribery or fraudulent representation;
- 17 (8) The licensee knowingly made a false statement in connection with any application
18 required by this chapter;
- 19 (9) The licensee lacks required training or fails to meet the continuing education
20 requirements set by the board;
- 21 (10) The licensee knowingly made a false statement on any form promulgated pursuant
22 to this chapter; or
- 23 (11) The licensee has violated any provision of this chapter or the rules promulgated by
24 the board.

1 Section 9. That § 36-27A-30 be amended to read as follows:

2 36-27A-30. The decision of the ~~Board of Examiners of Psychologists~~ board to suspend ~~or,~~

3 revoke, or deny a license requires a majority vote of all the board members.

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

544P0250

SENATE TRANSPORTATION ENGROSSED NO. **SB**

63 - 1/17/2008

Introduced by: Senators McCracken, Abdallah, Albers, Garnos, Hauge, Knudson, Maher, Napoli, Olson (Ed), Peterson (Jim), and Turbak Berry and Representatives Vehle, Gillespie, Gosch, Halverson, Hargens, Krebs, and Lust

1 FOR AN ACT ENTITLED, An Act to require local law enforcement officers to provide certain
2 information to repossession businesses under certain circumstances.

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

4 Section 1. Any person in the business of repossessing motor vehicles may request any local
5 law enforcement officer to provide the license plate number and color of a motor vehicle
6 licensed in South Dakota. If a person in the business of repossessing motor vehicles provides
7 a copy of the contract for the repossession of the motor vehicle to a local law enforcement
8 officer, the officer shall provide the license plate number and color of the motor vehicle to the
9 person. Any law enforcement officer, who in good faith releases information pursuant to this
10 section, is immune from civil liability for such release.



State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

644P0188

SENATE TRANSPORTATION ENGROSSED NO. **SB**

64 - 1/22/2008

Introduced by: Senators Napoli, Bartling, Duenwald, Heidepriem, Maher, McCracken, McNenny, Olson (Ed), Peterson (Jim), Schmidt (Dennis), and Sutton and Representatives Peters, Brunner, Hackl, Kirkeby, Lust, and Olson (Betty)

1 FOR AN ACT ENTITLED, An Act to provide certain provisions regarding the regulation of
2 recreational park trailers.

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

4 Section 1. That subdivision (2) of § 10-45D-1 be amended to read as follows:

5 (2) "Campground," any property or premise kept, used, maintained, advertised, or held
6 out to the public to be a place where sites are available for placing of tents, campers,
7 trailers, recreational park trailers, mobile homes, or other mobile accommodations
8 to transient guests. Campgrounds include city, county, and state-owned
9 campgrounds, as well as concessionaires or contractors who manage or operate
10 publicly owned campgrounds. The following constitute campgrounds: campgrounds,
11 camping cabins, camping resorts, commercial picnic grounds, organizational camps,
12 park units, recreational vehicle parks, trailer parks, and youth camps;

13 Section 2. That § 32-3-1 be amended to read as follows:



1 32-3-1. Terms used in chapters 32-3 to 32-5B, inclusive, mean:

2 (1) "Commercial motor vehicle," any motor vehicle used or maintained for the
3 transportation of persons or property for hire, compensation, or profit, or designed,
4 used, or maintained primarily for the transportation of property, and not specifically
5 excluded under § 32-9-3;

6 (2) "Component part," any part of a motor vehicle, trailer, or semitrailer other than a tire,
7 having a vehicle identification number;

8 (3) "Dealer," any person who, for commission or with intent to make a profit or gain,
9 sells, exchanges, rents with option to purchase, offers or attempts to negotiate a sale
10 or exchange of new, or new and used vehicles, or who is engaged wholly or in part
11 in the business of selling new, or new and used vehicles, whether or not such vehicles
12 are owned by that person;

13 (4) "Department," Department of Revenue and Regulation;

14 (4A) "Gross vehicle weight rating," the value specified by the manufacturer as the loaded
15 weight of a single vehicle;

16 (5) "Junking certificate," a certificate of ownership, which may not be restored to a title
17 document which allows highway use, issued by the department to the owner of a
18 vehicle which is going to be dismantled and sold for parts;

19 (6) "Manufactured home," a structure, transportable in one or more sections, which is
20 eight body feet or more in width or forty body feet or more in length in the traveling
21 mode, or is three hundred twenty or more square feet when erected on a site; which
22 is built on a permanent chassis and designed to be used as a dwelling, with or without
23 a permanent foundation, when connected to the required utilities; and which contains
24 the plumbing, heating, air conditioning, and electrical systems therein. The term

1 includes any structure which meets all the requirements of this subdivision and any
2 other structure which has been certified by the secretary of housing and urban
3 development. The term does not include a recreational park trailer;

4 (7) "Manufacturer," any person, firm, corporation, limited liability company, or
5 association engaged in the manufacture of new motor vehicles as a regular business;

6 (8) "Mobile home," a movable or portable unit, designed and constructed to be towed on
7 its own chassis (comprised of frame and wheels) , and designed to be connected to
8 utilities for year-round occupancy. The term includes:

9 (a) Units containing parts that may be folded, collapsed, or telescoped when being
10 towed and that may be expanded to provide additional cubic capacity; and

11 (b) Units composed of two or more separately towable components designed to
12 be joined into one integral unit capable of being separated again into the
13 components for repeated towing.

14 The term does not include a recreational park trailer;

15 (9) "Moped," a motor driven cycle equipped with two or three wheels. If a combustion
16 engine is used, the maximum piston or rotor displacement shall be fifty cubic
17 centimeters regardless of the number of chambers in such power source. The power
18 source shall be equipped with a power drive system that functions directly or
19 automatically only, not requiring clutching or shifting by the operator after the drive
20 system is engaged;

21 (10) "Motorcycle," includes motorcycles, motorbikes, mopeds, bicycles with motor
22 attached, and all motor operated vehicles of the bicycle or tricycle type, whether the
23 motive power be a part thereof or attached thereto, and having a saddle or seat with
24 the driver sitting astride or upon it, or a platform on which the driver stands, but

- 1 excluding a tractor;
- 2 (11) "Motor vehicle," automobiles, motor trucks, motorcycles, house trailers, trailers, and
- 3 all vehicles propelled by power other than muscular power, except traction engines,
- 4 road rollers, farm wagons, freight trailers, vehicles that run only on rails or tracks,
- 5 and off-road vehicles as defined in § 32-20-1;
- 6 (12) "New motor vehicle," any motor vehicle to which a manufacturer's statement of
- 7 origin has not been transferred, or is a motor vehicle on which title was issued from
- 8 the manufacturer's statement of origin or manufacturer's certificate of origin and is
- 9 still in the name of the first person who took title to the vehicle;
- 10 (13) "Noncommercial motor vehicle," any motor vehicle not classified as a commercial
- 11 motor vehicle;
- 12 (14) "Noncommercial trailer or semitrailer," any trailer or semitrailer not used or
- 13 maintained for the transportation of persons or property for hire, compensation, or
- 14 profit;
- 15 (14A) "Notation," a physical or electronic process of recording a lien on a certificate of title,
- 16 a manufacturer's statement of origin, or a manufacturer's certificate of origin;
- 17 (15) "Off-road vehicle," any self-propelled, two or more wheeled vehicle designed
- 18 primarily to be operated on land other than a highway and includes, ~~but is not limited~~
- 19 ~~to,~~ all terrain vehicles, dune buggies, and any vehicle whose manufacturer's statement
- 20 of origin (MSO) or manufacturer's certificate of origin (MCO) states that the vehicle
- 21 is not for highway use. ~~Off-road vehicle~~ The term does not include a farm vehicle as
- 22 defined in this section;
- 23 (16) "Owner," any person, firm, association, or corporation renting a motor vehicle or
- 24 having the exclusive use thereof, under a lease or otherwise, for a period greater than

1 thirty days; as between contract vendor and contract vendee, the term "owner" shall
2 refer to the contract vendee, unless the contrary clearly appears from the context of
3 chapters 32-3 to 32-5B, inclusive, or a person having legal possession or title;

4 (17) "Rebuilt vehicle," any motor vehicle, trailer, or semitrailer that has been rebuilt by
5 the addition or deletion of assemblies, subassemblies, parts, or component parts so
6 that upon gross visual examination it does not appear to be the vehicle described in
7 the certificate of title last issued for the vehicle, or whose title has been marked as
8 "rebuilt" by this state or another state or jurisdiction;

9 (17A) "Recreational park trailer," a vehicle that is primarily designed to provide temporary
10 living quarters for recreational, camping, or seasonal use and which:

11 (a) Is built on a single chassis mounted on wheels;

12 (b) Has a gross trailer area not exceeding four hundred square feet in the setup
13 mode;

14 (c) Is certified by the manufacturer as complying with American National
15 Standards Institute Standard No. A119.5 in effect on January 1, 2008; and

16 (d) Has at least a seventeen digit identification number and the manufacturer has
17 designated the vehicle as a recreational park model on the manufacturer
18 statement of origin;

19 (18) "Recreational vehicle," a vehicular portable structure built on a chassis designed to
20 be used as a temporary dwelling for travel, recreational, ~~and~~ vacation, or seasonal
21 uses, permanently identified as "a travel trailer" or a recreational park trailer by the
22 manufacturer of the trailer;

23 (19) "Road tractor," any motor vehicle designed and used for drawing other vehicles,
24 except farm or logging tractors used exclusively for farming or logging, and not so

1 constructed as to carry any load thereon either independently or any part of the
2 weight of a vehicle or load so drawn;

3 (20) "Secretary," secretary of revenue and regulation;

4 (21) "Semitrailer," any vehicle of the trailer type, equipped with a kingpin assembly,
5 designed and used in conjunction with a fifth wheel connecting device on a motor
6 vehicle constructed so that some part of its weight and that of its load rests upon or
7 is carried by another vehicle;

8 (22) "State," includes the territories and the federal districts of the United States;

9 (23) "Trailer," any vehicle without motive power designed for carrying property or
10 passengers wholly on its own structure and for being drawn by a motor vehicle;

11 (24) "Truck tractor," any motor vehicle designed and used primarily for drawing other
12 vehicles and not so constructed as to carry a load other than a part of the weight of
13 the vehicle and load so drawn;

14 (25) "Used vehicle," any motor vehicle to which title has been issued to someone other
15 than the first person who took title to the motor vehicle from the manufacturer's
16 statement of origin or manufacturer's certificate of origin; and

17 (26) "Vehicle identification number," the number assigned by the manufacturer or by the
18 department for the purpose of identifying the vehicle. The term includes any number
19 or letters assigned by the manufacturer for the purpose of identifying a component
20 part and any such number stamped on a vehicle or part according to law or the rules
21 promulgated by the department for the purpose of identifying the vehicle or part.

22 Section 3. That § 32-6B-1 be amended by adding thereto a NEW SUBDIVISION to read as
23 follows:

24 "Recreational park trailer," a vehicle that is primarily designed to provide temporary

1 living quarters for recreational, camping, or seasonal use and which:

- 2 (a) Is built on a single chassis mounted on wheels;
- 3 (b) Has a gross trailer area not exceeding four hundred square feet in the setup
4 mode;
- 5 (c) Is certified by the manufacturer as complying with American National
6 Standards Institute Standard No. A119.5 in effect on January 1, 2008; and
- 7 (d) Has at least a seventeen digit identification number and the manufacturer has
8 designated the vehicle as a recreational park model on the manufacturer
9 statement of origin.

10 Section 4. That § 32-6B-12 be amended to read as follows:

11 32-6B-12. Any dealer's license issued under this chapter shall be of the following classes:

- 12 (1) "Vehicle dealer's license," to permit the licensee to engage in the business of selling
13 or exchanging new, or new and used, vehicles;
- 14 (2) "Used vehicle dealer's license," to permit the licensee to engage in the business of
15 selling or exchanging used vehicles only;
- 16 (3) "Motorcycle dealer's license," to permit the licensee to engage in the business of
17 selling or exchanging new or used motorcycles only;
- 18 (4) "Trailer dealer's license," to permit the licensee to engage in the business of selling
19 or exchanging trailers, semitrailers, recreational park trailers, or travel trailers only,
20 new or used; or
- 21 (5) "Emergency vehicle dealer's license," to permit the licensee to engage in the business
22 of selling or exchanging new or used authorized emergency vehicles.

23 A license certificate identifying the class of dealership and containing a distinguishing
24 identification number of licensee shall be issued by the department if the application is in

1 compliance with the provisions of this chapter.

2 Section 5. That subdivision (1) of § 34-18-1 be amended to read as follows:

3 34-18-1. Terms used in this chapter mean:

4 (1) Campground, a plot of ground for public use upon which two or more campsites are
5 located, established, maintained, advertised, or held out to the public to be a place
6 where camping units can be located and occupied as temporary living quarters for
7 children or adults, or both. Camping units are considered to be trailers, tent campers,
8 campers, tents, recreational park trailers, or other equipment that may be used by the
9 ~~traveling~~ public at individual campsites located at campgrounds or areas used by the
10 public as campgrounds;

11

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

833P0414

HOUSE TRANSPORTATION ENGROSSED NO. **SB 87** - 2/5/2008

Introduced by: Senators Gant, Garnos, and Peterson (Jim) and Representatives Steele, Juhnke, and Weems

1 FOR AN ACT ENTITLED, An Act to reduce the period of effectiveness for cease and desist
2 orders issued to certain dealers.

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

4 Section 1. That § 32-6B-41.1 be amended to read as follows:

5 32-6B-41.1. In addition to any other remedy provided by law, the secretary of revenue and
6 regulation may issue an order directing a vehicle dealer to cease and desist from engaging in any
7 act or practice enumerated in § 32-6B-41. A cease and desist order issued pursuant to this
8 section ~~shall be~~ is effective for a period of ~~five~~ two years.

9 Section 2. That § 32-6C-14.1 be amended to read as follows:

10 32-6C-14.1. In addition to any other remedy provided by law, the secretary of revenue and
11 regulation may issue an order directing a snowmobile dealer to cease and desist from engaging
12 in any act or practice enumerated in § 32-6C-14. A cease and desist order issued pursuant to this
13 section is effective for a period of ~~five~~ two years.

14 Section 3. That § 32-7A-4.3 be amended to read as follows:



1 32-7A-4.3. In addition to any other remedy provided by law, the secretary of revenue and
2 regulation may issue an order directing a dealer to cease and desist from engaging in any act or
3 practice enumerated in § 32-7A-4.2. A cease and desist order issued pursuant to this section is
4 effective for a period of ~~five~~ two years.

5 Section 4. That § 32-7B-17.1 be amended to read as follows:

6 32-7B-17.1. In addition to any other remedy provided by law, the secretary of revenue and
7 regulation may issue an order directing a boat dealer to cease and desist from engaging in any
8 act or practice enumerated in § 32-7B-17. A cease and desist order issued pursuant to this
9 section is effective for a period of ~~five~~ two years.

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

708P0550

SENATE TRANSPORTATION ENGROSSED NO. **SB** **139** - 1/22/2008

Introduced by: Senators Turbak Berry, Albers, Hoerth, Koetzle, and Lintz and
Representatives Faehn, Koistinen, and Rave

1 FOR AN ACT ENTITLED, An Act to revise the definition for authorized emergency vehicles.

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

3 Section 1. That subdivision (2) of § 32-14-1 be amended to read as follows:

4 (2) "Authorized emergency vehicle," a vehicle of a fire department, a police vehicle, ~~and~~
5 an ambulance ~~and~~ or emergency vehicle of a municipal department or public service
6 corporation that is designated or authorized by the department, and an emergency
7 vehicle titled to a local organization for emergency management created pursuant to
8 chapter 33-15;

9



State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

635P0615

HOUSE TRANSPORTATION ENGROSSED NO. **SB 156** - 2/5/2008

Introduced by: Senators Apa, Abdallah, Hunhoff, Koetzle, Maher, and Napoli and
Representatives Pederson (Gordon), Dennert, Moore, and Turbiville

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding special motor vehicle
2 license plates for veterans with a disability, prisoners of war, Pearl Harbor survivors, and
3 Purple Heart recipients.

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

5 Section 1. That § 32-5-108 be amended to read as follows:

6 32-5-108. Any resident veteran owner of a motor vehicle who has received the United States
7 Veterans' Administration K Award, meets the qualifications established by Public Law 187 of
8 the Eighty-second Congress for a veteran to receive an automobile, or a veteran who has been
9 rated as in receipt of a statutory benefit for loss or loss of use of one or more extremities, or a
10 veteran who receives a veteran's allotment for total disability under compensation which is
11 considered a service-connected injury, upon application to the department shall receive a ~~set~~
12 maximum of two sets of special license plates for any automobile, pickup truck, or van licensed
13 pursuant to § 32-5-5 or a motorcycle licensed pursuant to § 32-5-9. The veteran may choose to
14 use one of the two sets of plates on a noncommercial motor vehicle that is a pickup truck and



1 that weighs more than six thousand pounds licensed pursuant to § 32-5-6.3 or a motor home
2 licensed pursuant to § 32-5-6.1. The veteran shall pay the regular license fees set out in §§ 32-5-
3 6.3 and 32-5-6.1 and may not be required to pay the ten dollars for the special plates and
4 renewal stickers. The special plates shall be displayed as set forth in § 32-5-98. The design of
5 the license plate shall consist of a white background bordered on the left by a blue field with
6 white stars and on the right by alternating red and white stripes. The words "Disabled Veteran"
7 shall be inscribed on the plate in blue, in at least ten point bold type. The license plate shall be
8 reflectorized and validated each year with a sticker in the same manner as a noncommercial
9 license plate. License fees for the special plates shall be ten dollars for the plates and the
10 renewal stickers. No license fee or sticker fee pursuant to § 32-5-6 or 32-5-9 may be charged
11 to the veteran. The fees shall be deposited in the license plate special revenue fund.

12 In order to qualify for a special license plate pursuant to this section, a veteran shall, in
13 addition to meeting the qualifications established in the first paragraph, have incurred disabling
14 injuries while serving the United States in active duty during a time of war or while participating
15 in a military mission involving armed conflict. If it is determined that the veteran owner does
16 not qualify for the special plates or if the veteran owner dies, the plates shall be surrendered to
17 the county treasurer of applicant's residence. The treasurer shall notify the secretary who shall
18 make the necessary changes in the registration file. Failure to surrender the special license plates
19 as required by this section is a Class 2 misdemeanor.

20 Section 2. That § 32-5-109 be amended to read as follows:

21 32-5-109. Any resident of this state who was a prisoner of war while serving in the United
22 States armed forces and who received an honorable discharge from the United States armed
23 forces is eligible to apply to the secretary for a maximum of two sets special motor vehicle
24 license plates if the resident has first complied with all laws of this state for any automobile,

1 pickup truck, or van licensed pursuant to § 32-5-5 or a motorcycle licensed pursuant to § 32-5-9.
2 The veteran may choose to use one of the two sets of plates on a noncommercial motor vehicle
3 that is a pickup truck and that weighs more than six thousand pounds licensed pursuant to § 32-
4 5-6.3 or a motor home licensed pursuant to § 32-5-6.1. The veteran shall pay the regular license
5 fees set out in §§ 32-5-6.3 and 32-5-6.1 and may not be required to pay the ten dollars for the
6 special plates and renewal stickers. Each application shall be on a form prescribed by the
7 secretary and shall include certification of the applicant's prisoner of war status from the United
8 States Veterans' Administration. The applicant shall pay a ten dollar fee and shall receive special
9 plates. The special plates shall be displayed as set forth in § 32-5-98. A fee of ten dollars shall
10 be paid for the renewal stickers. No registration fee or sticker fee may be charged to the
11 applicant pursuant to § 32-5-6 or 32-5-9. The fees shall be deposited into the license plate
12 special revenue fund. Upon approval of the application, the secretary shall issue the license
13 plates which shall be numbered consecutively, beginning with the number 1, and the number
14 shall be preceded by the letters POW. If it is determined that an applicant does not qualify for
15 the special plates or if the applicant dies, the plates shall be surrendered to the county treasurer
16 of the applicant's residence. The treasurer shall notify the secretary who shall make the
17 necessary changes in the registration file. Failure to surrender the special license plates as
18 required by this section is a Class 2 misdemeanor.

19 Section 3. That § 32-5-109.1 be amended to read as follows:

20 32-5-109.1. Any resident of this state who was serving in the United States armed forces
21 and survived the attack at Pearl Harbor, Hawaii, on December 7, 1941, and who received an
22 honorable discharge, may apply to the secretary for a maximum of two sets of special motor
23 vehicle license plates if the applicant has complied with all the laws of this state for any
24 automobile, pickup truck, or van licensed pursuant to § 32-5-5 or a motorcycle licensed pursuant

1 to § 32-5-9. The veteran may choose to use one of the two sets of plates on a noncommercial
2 motor vehicle that is a pickup truck and that weighs more than six thousand pounds licensed
3 pursuant to § 32-5-6.3 or a motor home licensed pursuant to § 32-5-6.1. The veteran shall pay
4 the regular license fees set out in §§ 32-5-6.3 and 32-5-6.1 and may not be required to pay the
5 ten dollars for the special plates and renewal stickers. Each application shall be on a form
6 prescribed by the secretary and shall include such information as the secretary may require. The
7 applicant shall pay a ten dollar fee and shall receive special plates. The special plates shall be
8 displayed as set forth in § 32-5-98. A fee of ten dollars shall be paid for the renewal stickers. No
9 registration fee or sticker fee may be charged to the applicant pursuant to § 32-5-6 or 32-5-9.
10 The fee shall be deposited into the license plate special revenue fund. Upon approval of the
11 application, the secretary shall issue the license plates. The license plates shall be numbered
12 consecutively beginning with number 1 and contain a symbol to be determined by the secretary
13 indicating that the owner of the vehicle is a Pearl Harbor survivor. If it is determined that an
14 applicant does not qualify for the special plates or if the applicant dies, the plates shall be
15 surrendered to the county treasurer of the applicant's residence. The treasurer shall notify the
16 secretary who shall make the necessary changes in the registration file.

17 Section 4. That § 32-5-109.2 be amended to read as follows:

18 32-5-109.2. Any resident veteran owner of a motor vehicle who has received the Purple
19 Heart Medal may apply to the secretary to receive a maximum of two sets of special license
20 plates for any automobile, pickup truck, or van licensed pursuant to § 32-5-5 or a motorcycle
21 licensed pursuant to § 32-5-9. The veteran may choose to use one of the two sets of plates on
22 a noncommercial motor vehicle that is a pickup truck and that weighs more than six thousand
23 pounds licensed pursuant to § 32-5-6.3 or a motor home licensed pursuant to § 32-5-6.1. The
24 veteran shall pay the regular license fees set out in §§ 32-5-6.3 and 32-5-6.1 and may not be

1 required to pay the ten dollars for the special plates and renewal stickers. The fee for the special
2 license plates and the renewal stickers for the plates shall be issued only upon proof of payment
3 of the current registration fees shall be ten dollars. The special plates shall be numbered
4 consecutively beginning with number 1 and contain a symbol to be determined by the secretary
5 indicating that the owner has received the Purple Heart Medal. The special plates shall be
6 displayed as set forth in § 32-5-98. The special license plate shall be reflectorized and validated
7 each year with a sticker in the same manner as a noncommercial license plate. No license fees
8 may be charged for the special plates and its or renewal stickers fees may be charged to the
9 applicant pursuant to § 32-5-6 or 32-5-9. If it is determined that the veteran owner does not
10 qualify for the special plates or if the veteran owner dies, the plates shall be surrendered to the
11 county treasurer of the applicant's residence. The treasurer shall notify the secretary who shall
12 make the necessary changes in the registration file. Failure to surrender the special license plates
13 as required by this section is a Class 2 misdemeanor.