

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

862P0295

SENATE JUDICIARY ENGROSSED NO. **HB 1099** - 2/13/2008

Introduced by: Representatives Vehle, Deadrick, and Elliott and Senator Hansen (Tom) at the request of the Interim Committee on Education for Divorcing Parents, Visitation, and Custody Task Force

1 FOR AN ACT ENTITLED, An Act to require custody or visitation dispute mediation under
2 certain circumstances.

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

4 Section 1. That § 25-4-56 be amended to read as follows:

5 25-4-56. In any custody or visitation dispute between parents, the court shall, ~~unless the~~
6 ~~court deems it inappropriate under the facts of the case,~~ order mediation to assist the parties in
7 formulating or modifying a plan, or in implementing a plan, for custody or visitation and shall
8 allocate the cost of the mediation between the parties. However, mediation shall not be ordered
9 if:

10 (1) One of the parents has been convicted of domestic abuse as defined in subdivision
11 25-10-1(1); or

12 (2) One of the parents has been convicted of assault against a person as defined in
13 subdivision 25-10-1(2), except against any person related by consanguinity, but not
14 living in the same household; or



1 (3) One of the parents has a history of domestic abuse; or

2 (4) Mediation is not readily available or the court determines that mediation is not

3 appropriate based on the facts and circumstances of the case.

4 The court may also direct that an investigation be conducted to assist the court in making a

5 custody or visitation determination and shall allocate the costs of such investigation between

6 the parties. A history of domestic abuse may only be proven by greater convincing force of the

7 evidence.

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

454P0499

SENATE JUDICIARY ENGROSSED NO. **HB 1149** 2/20/2008

Introduced by: Representatives Novstrup (David), Boomgarden, Feinstein, Gillespie, Kirkeby, Moore, Novstrup (Al), Pitts, Rounds, and Street and Senators McCracken, Abdallah, Albers, Gant, Koetzle, Nesselhuf, Sutton, and Turbak Berry

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding protection orders
2 granted upon a finding of domestic abuse.

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

4 Section 1. That § 25-10-5 be amended to read as follows:

5 25-10-5. Upon notice and a hearing, if the court finds by a preponderance of the evidence
6 that domestic abuse has taken place, the court may provide relief as follows:

- 7 (1) Restrain any party from committing acts of domestic abuse;
- 8 (2) Exclude the abusing party from the dwelling which the parties share or from the
9 residence of the petitioner;
- 10 (3) Award temporary custody or establish temporary visitation with regards to minor
11 children of the parties;
- 12 (4) Establish temporary support for minor children of the parties or a spouse;
- 13 (5) Order that ~~either or both of the parties~~ the abusing party obtain counseling;



1 (6) Order other relief as the court deems necessary for the protection of a family or
2 household member, including orders or directives to a sheriff or constable.

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

5 If any minor child resides with either party, the court shall order that the ~~parties~~ abusing
6 party receive instruction on parenting approved or provided by the Department of Social
7 Services as part of any relief granted.

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

832P0546

SENATE JUDICIARY ENGROSSED NO. **HB 1162** -
2/20/2008

Introduced by: Representatives Cutler, Feinstein, Lucas, Rave, and Willadsen and Senators Gray, Hunhoff, Jerstad, Koetzle, and Turbak Berry

1 FOR AN ACT ENTITLED, An Act to prohibit the branding of a minor and to provide a penalty
2 therefor.

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

4 Section 1. That chapter 26-10 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 No person may brand a minor. For the purposes of this section, the term, brand, means to
7 make a permanent mark on a person's skin through the use of heat, cold, or a chemical
8 compound, or to cut, tear, or abrade the skin for the purpose of creating a permanent mark or
9 design. It is not a violation of this Act to tattoo a minor in compliance with the provisions of
10 § 26-10-19. It is not a violation of this Act to pierce any part of a minor's body for the purpose
11 of jewelry or adornment with consent. A violation of this section is a Class 1 misdemeanor.
12 However, any second or subsequent violation of this section is a Class 6 felony.



State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

400P0318

HOUSE EDUCATION ENGROSSED NO. **SB 27** - 2/22/2008

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

1 FOR AN ACT ENTITLED, An Act to revise the state requirement for inspection of school food

2 service programs.

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

4 Section 1. That § 13-35-7 be amended to read as follows:

5 13-35-7. Any site operated for the preparation of meals for children as part of a school food

6 service program shall have a minimum of two state health inspections every ~~five years~~. Any site

7 ~~that serves meals to children as part of a school food service program shall have a minimum of~~

8 ~~one state health inspection every five years~~ school year.



State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

400P0381

HOUSE STATE AFFAIRS ENGROSSED NO. **SB 54** 2/22/2008

Introduced by: The Committee on State Affairs at the request of the Department of Tourism and State Development

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the duties and
2 reporting requirements for the South Dakota Energy Infrastructure Authority.

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

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

5 1-16I-6. The authority shall:

6 (1) Meet with any interested owner of transmission lines in South Dakota and any
7 interested generator and distributor of electricity to consumers in South Dakota ~~by~~
8 ~~August first each year~~ to understand the generation of electricity in South Dakota and
9 the transmission enhancements needed for the transmission of electricity to, from,
10 and within South Dakota, and to analyze how the authority could proactively assist
11 in developing the generation and transmission infrastructure;

12 (2) Report its findings and make recommendations to the Governor, the Legislature, and
13 the South Dakota congressional delegation ~~by December first of each year~~ at least
14 once every five years concerning what the private sector, the state, and the federal



1 government can do to create and enhance the generation of electricity in South
2 Dakota and the transmission of electricity to, from, and within South Dakota. ~~The~~
3 ~~report due December 1, 2007, shall address and quantify market opportunities for the~~
4 ~~development, use in-state, and, including, as appropriate, the export of South~~
5 ~~Dakota's enormous wind power resource, including, as appropriate, the export of~~
6 South Dakota's wind power resource;

7 (3) ~~Annually evaluate~~ Evaluate state laws and rules affecting electric generation and
8 electric transmission and make recommendations to the Governor and the Legislature
9 for improvements;

10 (4) ~~Annually evaluate~~ Evaluate federal laws and rules affecting electric generation and
11 electric transmission and make recommendations to the South Dakota congressional
12 delegation for improvements ~~by December first of each year;~~

13 (5) Identify opportunities where owners of transmission lines in South Dakota and
14 generators and distributors of electricity to consumers in South Dakota can cooperate
15 to improve and increase electric transmission in South Dakota and communicate
16 those opportunities to owners, generators, and distributors of electricity in South
17 Dakota;

18 (6) Assist any entity that wants to build new or upgrade existing electric transmission
19 facilities to, from, and within South Dakota by helping the entity develop a business
20 plan and identify financing options; and

21 (7) Assist other state transmission authorities and any federal or regional entity wanting
22 to build new or upgrade existing transmission facilities to deliver electricity to, from,
23 and within South Dakota.

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

640P0636

HOUSE TAXATION ENGROSSED NO. **SB 115** 2/21/2008

Introduced by: Senators Bartling, Greenfield, Hansen (Tom), Hanson (Gary), and Peterson (Jim) and Representatives Tidemann, Burg, Dennert, Lucas, and Rausch

1 FOR AN ACT ENTITLED, An Act to increase the amount of funding for conservation and
2 value-added agriculture purposes from certain unclaimed motor fuel tax refunds.

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

4 Section 1. That § 10-47B-154 be amended to read as follows:

5 10-47B-154. The Legislature finds that not all motor fuel taxes which qualify for the
6 nonhighway agricultural motor fuel tax refund are, in fact, refunded under the procedure set
7 forth in this chapter. The Legislature further finds that a certain amount of these unclaimed tax
8 refunds from the sale of motor fuel for nonhighway agricultural uses should be ~~utilized~~ used for
9 agricultural purposes in a manner which benefits both agriculture and the citizens of the state
10 by preserving its natural resources. Therefore, the Legislature declares that an amount equal to
11 ~~thirty-five percent of one-half of the gallons of the annual South Dakota agricultural gasoline~~
12 and gasoline blend sales as determined in section 2 of this Act is used for nonhighway
13 agricultural purposes and eligible for refund of the motor fuel tax. The amount of eligible tax
14 refund less the claimed refunds authorized by § 10-47B-119, ~~not to exceed one million five~~



1 ~~hundred thousand dollars in any single fiscal year, as determined in section 2 of this Act~~
2 represents the amount of unclaimed tax refunds from the sale of motor fuel tax for nonhighway
3 agricultural uses. The Legislature further declares that it is the policy of this state to use these
4 funds, representing the unclaimed tax refunds from the sale of motor fuel for nonhighway
5 agricultural purposes, to implement the coordinated natural resources conservation program.
6 Notwithstanding any other provisions of this Act, the total amount of unclaimed motor fuel tax
7 refunds to be transferred to the coordinated natural resources conservation program, may not
8 exceed one million five hundred thousand dollars in any single fiscal year.

9 Section 2. For purposes of section 1 of this Act, the amount of unclaimed tax refunds from
10 the sale of motor fuel for nonhighway agricultural purposes in any fiscal year is determined as
11 provided in this section. The gasoline and gasoline blend sales in South Dakota in accordance
12 with section 1 of this Act, is twelve percent of the gasoline and gasoline blend sales by the
13 plains states as reported in the USDA-NASS Farm Production Expenditures Annual Summary
14 Report. The number of gallons of gasoline and gasoline blend used in South Dakota for
15 agricultural purposes is the amount of money spent on gasoline and gasoline blend in South
16 Dakota for agricultural purposes divided by the average price of gasoline as published by the
17 Energy Information Administration. The number of gallons of gasoline and gasoline blend
18 purchased for nonhighway agricultural purposes is fifty percent of the gallons purchased in
19 South Dakota in accordance with section 1 of this Act. That amount multiplied by the tax rate
20 pursuant to § 10-47B-4 is the amount of tax that is eligible to be refunded by the Department
21 of Revenue and Regulation. The amount of money eligible for refunds less the actual amount
22 of refunds paid by the Department of Revenue and Regulation is the total amount of unclaimed
23 refunds.

24 Section 3. That § 10-47B-149 be amended to read as follows:

1 10-47B-149. At the beginning of each month, the secretary shall make adjustments to the
2 motor fuel tax fund balance in the following manner:

3 (1) Each July transfer an amount to the snowmobile trails' fund equal to the product of
4 multiplying the number of licensed snowmobiles as of July first, times one hundred
5 twenty-five gallons, times the rate of tax provided for motor fuel under this chapter;

6 (2) Transfer to the motor fuel tax refund fund an amount to pay motor fuel tax refunds
7 for the current month;

8 (3) Transfer to the motor fuel tax administration account two percent of the deposits
9 made to the motor fuel tax fund during the preceding month to cover the expenses
10 incurred in administering all motor fuel and special fuel tax laws of this state. On or
11 about August first of each year, the preceding year's remaining motor fuel tax
12 administration account balance, less an amount to provide cash flow within the
13 account, shall be transferred to the state highway fund. The remaining balance is to
14 be calculated by subtracting from the total of monthly deposits, the amount of
15 corresponding expenses. The expense of administering the chapters relating to motor
16 and special fuel taxation shall be paid out of appropriations made by the Legislature;

17 (4) ~~Transfer~~ Each September transfer an amount to the coordinated natural resources
18 conservation fund ~~an amount equal to thirty-five percent of the claimed refunds~~
19 ~~authorized by § 10-47B-119 for the preceding month, not to exceed a cumulative~~
20 ~~total of one million five hundred thousand dollars in any single fiscal year~~ the amount
21 calculated pursuant to section 2 of this Act;

22 (5) Each July transfer to the parks and recreation fund an amount equal to the product of
23 multiplying the number of licensed motorized boats as of the previous December
24 thirty-first, times one hundred forty gallons, times the rate of tax provided for motor

1 fuels under this chapter;

2 (6) Transfer to the member jurisdictions taxes collected under the provisions of the
3 international fuel tax agreement; and

4 (7) Transfer the remaining cash balance to the state highway fund.

5 Section 4. That § 38-7-26 be amended to read as follows:

6 38-7-26. The coordinated natural resources conservation fund consists of money transferred
7 from the unclaimed tax refunds from the sale of motor fuel for nonhighway agricultural uses in
8 the motor fuel tax fund as provided in ~~§ 10-47A-11~~ § 10-47B-149, and all public and private
9 sources including legislative appropriations or federal grants.

10 Section 5. That § 38-7-27 be amended to read as follows:

11 38-7-27. The coordinated natural resources conservation program is hereby established.
12 Under this program, the State Conservation Commission may grant or loan funds from the
13 coordinated natural resources conservation fund. The Conservation Commission shall
14 promulgate rules pursuant to chapter 1-26 for administration, terms, and conditions for the
15 disbursement of grants or loans to conservation districts and to establish criteria for the selection
16 of projects to receive grants or loans through the coordinated natural resources conservation
17 program.

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

843P0524

SENATE ENGROSSED NO. **SB 116** - 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: Senators Knudson, Hansen (Tom), Lintz, and Peterson (Jim) and
Representatives Noem, Boomgarden, Dennert, Juhnke, Rhoden, Sigdestad,
and Vanneman

1 FOR AN ACT ENTITLED, An Act to revise certain provisions concerning the assessment of
2 real property and to revise the makeup of the implementation and oversight advisory task
3 force.

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

5 Section 1. That § 10-6-33.25 be amended to read as follows:

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



1 annual cash rent shall be capitalized at seven and three-fourths percent. For the taxes payable
2 in 2010, 2011, 2012, and 2013, the total taxable value of agricultural land within any county
3 may not increase more than fifteen percent in any year.

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

7 Section 2. That section 12 of HB 1005 as previously enacted by the Eighty-third Legislature
8 be amended to read as follows:

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

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

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

16 (2) The speaker of the House of Representatives shall appoint ~~two~~ three members of the
17 general public, at least one of the members shall have an agricultural background and
18 at least one of the members shall have a business background;

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~~ three members of the
22 general public, at least one of the members shall have an agricultural background and
23 at least one of the members shall have a business background.

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 pursuant to~~ section 5 of this
15 Act; and
- 16 (2) The proper capitalization rate in order to have total taxable valuation for the taxes
17 payable in 2011 from agricultural property be not more than total taxable valuation
18 for the taxes payable in 2010 from agricultural property plus the estimated growth in
19 agricultural property value in 2010.

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

735P0205

HOUSE COMMERCE ENGROSSED NO. **SB 126** 2/25/2008

Introduced by: Senators Olson (Ed), Dempster, Hanson (Gary), Heidepriem, Katus, Koetzle, McCracken, Nesselhuf, Schmidt (Dennis), Sutton, and Turbak Berry and Representatives Lust, Ahlers, Brunner, Cutler, Dreyer, Dykstra, Gilson, Gosch, Halverson, Howie, McLaughlin, Novstrup (David), Peters, Pitts, Rave, Tidemann, Wick, and Willadsen

1 FOR AN ACT ENTITLED, An Act to allow municipalities and counties to issue additional on-
2 sale alcoholic beverage licenses.

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

4 Section 1. That chapter 35-4 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Notwithstanding the provisions of § 35-4-11 or 35-4-11.1 or the on-sale license fees
7 established pursuant to subdivisions 35-4-2(4) and (6), the governing board of any incorporated
8 municipality or the board of county commissioners of any county may, by ordinance, issue
9 additional on-sale licenses for full-service restaurants if the municipality or county charges at
10 least the minimum fee required by section 7 of this Act.

11 Section 2. Terms used in this Act mean:

12 (1) "Bar," any permanently installed counter within the restaurant area from which
13 alcoholic beverages are regularly served to customers by a person who is tending bar



1 or drawing or mixing alcoholic beverages;

2 (2) "Full-service restaurant," any restaurant at which a waiter or waitress delivers food
3 and drink offered from a printed food menu to patrons at tables, booths, or the bar.
4 Any restaurant that only serves fry orders or food and victuals such as sandwiches,
5 hamburgers, or salads is not a full-service restaurant;

6 (3) "Restaurant," any area in a building maintained, advertised, and held out to the public
7 as a place where individually priced meals are prepared and served primarily for
8 consumption in such area and where not more than fifty percent of the gross revenue
9 of the restaurant is derived from the sale of alcohol or alcoholic beverages. The
10 restaurant shall have a dining room or rooms, a kitchen, and the number and kinds
11 of employees necessary for the preparing, cooking, and serving of meals.

12 Section 3. An applicant for a full-service restaurant on-sale license shall provide sufficient
13 documentation to the municipality to prove that the primary source of revenue from the
14 operation of the restaurant will be derived from the sale of prepared food and nonalcoholic
15 beverages and not from the sale of alcoholic beverages. The supporting documentation
16 concerning the primary source of revenue submitted pursuant to this section is confidential.

17 Section 4. When the municipality is renewing a full-service restaurant on-sale license, the
18 municipality shall condition the license renewal upon receiving documentation that not more
19 than fifty percent of gross sales from the preceding twelve months operation of the full-service
20 restaurant is derived from the sale of alcohol or alcoholic beverages. The full-service restaurant
21 on-sale licensee shall submit an annual report to the municipality on the sales for the full-service
22 restaurant that includes an oath verifying the validity of the information provided in the report.
23 The report and the supporting documentation submitted pursuant to this section are confidential.
24 The report shall contain the annual gross sales of the licensee for the following two categories:

1 (1) Food and nonalcoholic beverage sales; and

2 (2) Alcoholic beverage sales.

3 Section 5. A full-service restaurant on-sale licensee may only serve alcoholic beverages for
4 on-premise consumption in the bar and dining room area of the restaurant.

5 Section 6. A restaurant that has a full-service restaurant on-sale license may only be
6 advertised or held out to the public as primarily a food eating establishment. No licensee that
7 has a full-service restaurant on-sale license may allow smoking on the licensed premises.

8 Section 7. That chapter 35-4 be amended by adding thereto a NEW SECTION to read as
9 follows:

10 Any municipality or county adopting the ordinance pursuant to section 1 of this Act may
11 issue additional on-sale licenses to full-service restaurants. Any municipality adopting such
12 ordinance shall charge at least one dollar for each person residing within the municipality as
13 measured by the last preceding decennial federal census. Any county adopting such ordinance
14 shall charge at least one dollar for each person residing within the county but outside the
15 boundary of any municipality as measured by the last preceding decennial federal census.

16 Each municipality or county shall set the on-sale license fee within ninety days of adopting
17 the ordinance pursuant to section 1 of this Act or within thirty days after the resolution of any
18 appeal pursuant to section 3 of this Act. After the fee for an on-sale license issued pursuant to
19 this Act has been determined, no municipality or county may change the fee for a period of ten
20 years unless a growth in population reported by the federal decennial census requires an increase
21 in the fee.

22 Section 8. That chapter 35-4 be amended by adding thereto a NEW SECTION to read as
23 follows:

24 Each licensee who owns an on-sale license issued pursuant to subdivision 35-4-2(4) or (6)

1 as of January 1, 2008, and who purchased the license or had the license transferred to such
2 licensee at any time between January 1, 2003, and January 1, 2008, shall report the amount
3 originally paid for the on-sale license to the municipality or county that issued the license. The
4 declared purchase price shall be made under oath and shall include the documents establishing
5 the amount paid for the on-sale license to the municipality or county that issued the license. If
6 the transaction for the purchase of the on-sale license included real or personal property, the full
7 market value of the real or personal property on the date of the original sale shall be deducted
8 from the total transaction price to determine the amount paid by the licensee for the on-sale
9 license. The burden of establishing the amount paid for the license shall be on the licensee. Any
10 licensee contesting the fair market value of the real and personal property may appeal the
11 valuation to circuit court.

12 Section 9. Any municipality or county adopting the ordinance pursuant to section 1 of this
13 Act shall set the price of a new full-service restaurant on-sale license, pursuant to section 7 of
14 this Act, at or above the current fair market value. However, such full-service restaurant on-sale
15 license fee may not be less than the minimum on-sale license fee established pursuant to
16 subdivision 35-4-2(4) or (6). For purposes of this section, the term, current fair market value,
17 means the documented price of the on-sale license most recently sold between January 1, 2003,
18 and January 1, 2008, through an arm's-length transaction, less the value of any real or personal
19 property included in the transaction. Each on-sale license holder as of January 1, 2008, who
20 acquired the on-sale license within the last five years shall report to the municipality or county
21 the date and price paid for its on-sale license.

22 Section 10. Each municipality or county adopting an ordinance pursuant to section 1 of this
23 Act shall maintain a registry of each on-sale license that is being offered for sale at the price
24 established in section 9 of this Act and furnish a copy of the registry to anyone who requests a

1 new full-service restaurant on-sale license. The municipality or county may only issue a new
2 license pursuant to this Act if no on-sale license is on the registry or a person desiring to
3 purchase an on-sale license listed on the registry provides documentation showing that the
4 person is unable to purchase the on-sale license at the price established in section 9 of this Act
5 and on terms satisfactory to both the potential buyer and seller. The price of any on-sale license
6 registered as, for sale, with the municipality or county shall be sold at the current fair market
7 price set by the municipality or county pursuant to section 9 of this Act. Nothing in this Act
8 precludes the sale of an on-sale license by a licensee not listed on the registry.

9 Section 11. The existing on-sale license holder is responsible for registering with the
10 municipality or county that the on-sale license is for sale pursuant to section 10 of this Act.

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

840P0439

HOUSE AGRICULTURE AND NATURAL RESOURCES

ENGROSSED NO. **SB 134** - 2/21/2008

Introduced by: Senators Duenwald, Hansen (Tom), Hanson (Gary), Hauge, Lintz, McNenny, Peterson (Jim), and Sutton and Representatives Vehle, Brunner, Deadrick, DeVries, Halverson, Hargens, Jerke, Nelson, Sigdestad, Tidemann, and Vanneman

1 FOR AN ACT ENTITLED, An Act to increase the pesticide registration fee, to revise its
2 allocation, to revise certain related provisions, and to declare an emergency.

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

4 Section 1. That § 38-20A-4 be amended to read as follows:

5 38-20A-4. ~~On or before July 1, 1998, and every two years thereafter, and before~~ Before any
6 person whose name or brand name appears on a pesticide may distribute, sell, or offer for sale
7 or distribution in this state any pesticide, the person shall file with the secretary of agriculture
8 an application for the registration of the pesticide. Each application shall include, ~~but is not~~
9 ~~limited to~~, the following:

- 10 (1) The name and address of the applicant and the name and address of the person whose
11 name will appear on the label, if other than the applicant;
- 12 (2) The name of the pesticide;
- 13 (3) One complete copy of the labeling accompanying the pesticide and a statement of all



1 claims to be made for it, including directions for use;

2 (4) If requested by the secretary, efficacy, toxicity, residue, and any other data necessary
3 to determine if the pesticide will perform its intended function without unreasonable
4 adverse effects on the environment;

5 (5) The classification or lack of classification and general use or restricted use of the
6 pesticide; and

7 (6) A biennial application fee of ~~one hundred seventy-five~~ three hundred dollars.
8 Beginning July 1, 2010, the biennial application fee is two hundred forty dollars.

9 Each registration is valid for a two-year period and expires on the alternate June thirtieth.
10 The registration may not be transferred. A fee equal to fifty percent of the application fee shall
11 be applied to any late renewal.

12 If a pesticide has not been manufactured or distributed for two years, or is no longer
13 available for use due to a cancellation or suspension order of the United States Environmental
14 Protection Agency, it is not subject to registration requirements.

15 Section 2. That § 38-20A-55 be amended to read as follows:

16 38-20A-55. The secretary of agriculture ~~may~~ shall establish an advisory committee to
17 oversee development and implementation of the program established in §§ 38-20A-54 to 38-
18 20A-57, inclusive. Committee members shall represent entities or agencies cooperating with the
19 Department of Agriculture in the pesticide container recycling and pesticide disposal program.
20 Duties of the advisory committee ~~shall include establishing an educational effort~~ include
21 conducting ongoing educational efforts on waste minimization and container rinsing and
22 promoting waste pesticide and pesticide container collection.

23 Section 3. That § 38-20A-59 be amended to read as follows:

24 38-20A-59. The biennial application fee for each pesticide registered in § 38-20A-4 shall

1 be distributed as follows:

- 2 (1) Forty dollars shall be deposited in the pesticide regulatory fund created in § 38-21-
3 57;
- 4 (2) ~~Forty-two dollars and fifty cents~~ Sixty-seven dollars and fifty cents shall be deposited
5 in the weed and pest fund created in § 38-22-35;
- 6 (3) Forty-two dollars and fifty cents shall be deposited in the public lands weed and pest
7 fund created in § 38-20A-58;
- 8 (4) Thirty dollars shall be deposited within the agricultural experiment station pursuant
9 to chapter 13-58; ~~and~~
- 10 (5) Twenty dollars shall be deposited within the cooperative extension service pursuant
11 to chapter 13-54;
- 12 (6) Forty dollars shall be deposited in the pesticide recycling and disposal fund created
13 in § 38-20A-56; and
- 14 (7) Sixty dollars shall be deposited in the coordinated natural resources conservation
15 fund created in § 38-7-25. This subdivision is repealed on July 1, 2010.

16 The late renewal fee in § 38-20A-4 shall be divided equally among the weed and pest fund
17 created in § 38-22-35, the pesticide regulatory fund created in § 38-21-57, and the public lands
18 weed and pest fund created in § 38-20A-58.

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

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

195P0530

HOUSE COMMERCE ENGROSSED NO. **SB 143** - 2/25/2008

Introduced by: Senators Gray, Bartling, Dempster, Hanson (Gary), McCracken, and Nesselhuf and Representatives Faehn, Brunner, Hargens, Miles, and Rave

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding collection and
2 administration of the 911 emergency surcharge and operation of 911 services.

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

4 Section 1. That § 34-45-1 be amended to read as follows:

5 34-45-1. Terms used in §§ ~~34-45-1 to 34-45-17, inclusive~~, this chapter mean:

6 (1) "Active prepaid wireless telecommunication service user account," a prepaid wireless
7 service account:

8 (a) Which has a sufficient positive balance as of the last day of any month and is
9 issued to a person who resides in a zip code, or purchases the service, within
10 the state; or

11 (b) As estimated by dividing the total earned prepaid wireless telecommunications
12 service revenue received by the service provider within the monthly reporting
13 period by the industry's annually calculated average revenue per user as cited
14 in the FCC's Annual Report and Analysis of Competitive Market Conditions



1 With Respect to Commercial Mobile Services as required under 47 U.S.C.
2 § 332(c)(1)(C):

3 (c) Which is a retail sale by a prepaid wireless telecommunications service
4 provider to a service user in the state;

5 ~~(1)~~(2) "Basic 911," any service which provides the user of a ~~public telephone system~~ calling
6 device, which utilizes any communications technology, the ability to reach a public
7 safety answering point to report police, fire, medical, or other emergency situations
8 by dialing 911;

9 ~~(2)~~(3) "Board," the South Dakota 911 Coordination Board created pursuant to § 34-45-18;

10 (4) "Enhanced 911," any ~~emergency telephone~~ system which provides the user of a
11 ~~public telephone system~~ calling device, which utilizes any communications
12 technology, the ability to reach a public safety answering point by dialing the digits
13 911, and which routes ~~an incoming 911~~ that call to the appropriate public safety
14 answer point in a 911 service area and which automatically ~~displays the name,~~
15 ~~address, and telephone number of an incoming 911 call on a video monitor at the~~
16 appropriate public safety answer point provides information about the service user
17 to a 911 dispatcher including the user's name, location, call back number, and
18 assigned emergency responders;

19 ~~(3)~~(5) "Governing body," the board of county commissioners of a county or the city council
20 or other governing body of a county or municipality or the board of directors of a
21 special district;

22 (6) "Interconnected Voice-over Internet Protocol (VoIP) service," any service with the
23 following characteristics:

24 (a) Enables real-time two-way voice communication;

- 1 (b) Requires a broadband connection from the user's location;
- 2 (c) Requires internet protocol-compatible customer premise equipment; and
- 3 (d) Permits users generally to receive calls that originate and terminate on the
4 public switched telephone network;
- 5 ~~(4) "Local exchange access company," any franchised telephone company engaged in~~
6 ~~providing telecommunications services between points within a local calling area;~~
- 7 ~~(5) "Local exchange access lines," any telephone line or cellular telephone that connects~~
8 ~~a telephone subscriber to the local switching office and has the capability of reaching~~
9 ~~local public safety service agencies;~~
- 10 ~~(6)(7) "911 emergency reporting system" or "911 system," any telephone~~
11 ~~telecommunications service system consisting of network, database, and on-premises~~
12 ~~equipment which utilizes the single three-digit number 911 for reporting police, fire,~~
13 ~~medical, or other emergency situation;~~
- 14 ~~(7)(8) "911 emergency surcharge," any charge set by the governing body and assessed on~~
15 ~~each local exchange access line~~ any service user of any telecommunications service,
16 wireless telecommunications service, Interconnected Voice over Internet Protocol
17 service, or wireless prepaid telecommunications service which physically terminates
18 or originates within the governing body's designated 911 service area. ~~For a mobile~~
19 ~~telecommunications service, the term, 911 emergency surcharge, means any charge~~
20 ~~set by the governing body and assessed per cellular telephone identified within the~~
21 ~~governing body's designated 911 service area as determined by the customer's place~~
22 ~~of primary use as defined in 4 U.S.C. § 124 as in effect on July 28, 2000. The 911~~
23 ~~emergency surcharge shall be assessed and remitted for Interconnected Voice over~~
24 Internet Protocol and wireless telecommunications service based upon the service

1 user's place of primary use. Notwithstanding any other provision of this chapter and
2 for purposes of the surcharge imposed by this chapter, the surcharge imposed upon
3 mobile wireless telecommunication services shall be administered in accordance with
4 4 U.S.C. §§ 116-126 ~~as in effect on July 28, 2000.~~ For prepaid wireless ~~telephone~~
5 ~~calling~~ telecommunications services, the term, 911 emergency surcharge, means any
6 charge set ~~by the governing body~~ and assessed ~~per month of~~ for service purchased
7 provided to an active prepaid wireless telecommunications service user account
8 within the governing body's designated 911 service area state provided, however, that
9 with respect to an active prepaid wireless telecommunications service user account
10 under subsection 34-45-1(1)(c), the surcharge shall be two percent of the retail
11 purchase price of such service;

12 ~~(8)(9)~~ "Nonrecurring costs," any capital ~~and~~ or start-up expenditure for such as
13 telecommunications equipment, software, database, initial training, and the purchase
14 or lease of subscriber names, addresses, and telephone information ~~for the local~~
15 ~~exchange access company;~~

16 (10) "Place of primary use," the street address where the customer's use of the
17 communications service primarily occurs or the customer's registered location on the
18 date the customer is billed;

19 ~~(8A)(11)~~ "Prepaid wireless ~~telephone~~ telecommunications service," any wireless
20 ~~telephone~~ telecommunications service that is activated in advance by payment
21 for a finite dollar amount of service or for a finite number of minutes that
22 terminate either upon use by any person ~~and delivery by the wireless provider~~
23 ~~of an agreed amount of service corresponding to the total dollar amount paid~~
24 ~~in advance~~ or within a certain period of time following the initial purchase or

- 1 activation, unless an additional payment is made;
- 2 ~~(9)~~(12) "Public agency," any municipality, county, public district, or public authority
3 located in whole or in part within this state which provides or has the authority
4 to provide fire fighting, law enforcement, ambulance, emergency medical, or
5 other emergency services;
- 6 ~~(10)~~(13) "Public safety answering point," any twenty-four hour communications facility
7 which receives all 911 service calls and reroutes the requestor or information
8 to appropriate public or private safety agencies;
- 9 ~~(11)~~(14) "Recurring costs," any costs such as network access fee and other telephone
10 charges, software, equipment, database management, maintenance, charges to
11 maintain database of subscriber names, addresses, and telephone information
12 from the local exchange access company. Recurring costs may include
13 personnel expenses for a public safety answering point ~~and any other costs~~
14 ~~directly related to the operation of the 911 service;~~
- 15 (15) "Registered location," the most recent information obtained by an Interconnected
16 Voice over Internet Protocol service provider that identifies the physical location of
17 an end user;
- 18 (16) "Service provider," any person or entity providing, offering to provide, or selling
19 telecommunications service, wireless telecommunications service, prepaid wireless
20 telecommunications service, or Interconnected Voice over Internet Protocol service;
- 21 ~~(12)~~(17) "Service supplier," any person or entity who provides or offers to provide 911
22 system equipment, installation, maintenance, or exchange access services
23 within the 911 service access area; ~~and~~
- 24 ~~(13)~~(18) "Service user," any person who is ~~provided local access exchange telephone~~

1 purchases telecommunications service, wireless telecommunications service,
2 prepaid wireless telecommunications service, or Interconnected Voice over
3 Internet Protocol service in this state;

4 (19) "Service user line," the means by which a service user may place a call to a public
5 safety answering point through the use of a telecommunications service, wireless
6 telecommunications service, prepaid wireless telecommunications service, or
7 Interconnected Voice over Internet Protocol service. In the case of multi-station
8 network systems, service user lines shall be equal to the number of calls that can
9 simultaneously be made from such system to the public switched telephone network;

10 (20) "Telecommunications service," the transmission of signs, signals, writings, images,
11 sounds, messages, data, or other information of any nature by wire, radio, lightwave,
12 electromagnetic means, or other similar means. The term does not include the
13 provision of terminal equipment used to originate or terminate such service,
14 broadcast transmissions by radio, television, and satellite stations regulated by the
15 Federal Communications Commission and one-way cable television service;

16 (21) "Wireless telecommunications service," commercial mobile radio service, as such
17 term is defined in 47 C.F.R. 203 as of January 1, 2008.

18 Section 2. That § 34-45-2 be amended to read as follows:

19 34-45-2. The governing body of a public corporation may by ordinance authorize a 911
20 emergency reporting system. The ordinance shall include a description of the proposed 911
21 service area ~~and the maximum surcharge amount.~~

22 Section 3. That § 34-45-3 be amended to read as follows:

23 34-45-3. Any governing body may incur any nonrecurring or recurring costs for the
24 installation, maintenance, or operation of a 911 system and may pay such costs ~~by imposing a~~

1 ~~911 emergency surcharge for such service in those portions of the governing body's jurisdiction~~
2 ~~for which 911 service will be provided in whole or in part from a 911 emergency surcharge. If~~
3 ~~the 911 system is to be provided for any territory included in the jurisdiction of the governing~~
4 ~~bodies of two or more public agencies the public agencies may enter into a joint agreement for~~
5 ~~such service unless any such body expressly excludes itself therefrom. Any such agreement shall~~
6 ~~provide that each governing body which is a customer of such service shall make payment~~
7 ~~therefor from general revenues. Nothing in this section prevents two or more such governing~~
8 ~~bodies from entering into a contract to establish a separate legal entity to enter into such an~~
9 ~~agreement as the customer of the service supplier.~~

10 Section 4. That § 34-45-4 be amended to read as follows:

11 34-45-4. Upon compliance with § 34-45-2, the governing body may ~~impose~~ assess a
12 monthly uniform charge in an amount not to exceed seventy-five cents per service user line ~~on~~
13 ~~each local exchange access line of the governing body's jurisdiction for which the 911 system~~
14 ~~will be provided.~~ Any prepaid wireless telecommunications service provider shall remit the 911
15 emergency surcharge for each active prepaid wireless telecommunication service user account
16 to the South Dakota 911 coordination fund. The proceeds of this charge shall be utilized to pay
17 are continuously appropriated for reimbursement of nonrecurring and recurring costs of the 911
18 related service and operating expenses of the board. No such charge may be imposed upon more
19 than one hundred ~~local exchange access~~ service user lines or equivalent service, per customer
20 account billed, per month. In the case of multi-station network systems, service user lines shall
21 be equal to the number of calls that can simultaneously be made from such system to the public
22 switched telephone network.

23 Section 5. That § 34-45-5 be amended to read as follows:

24 34-45-5. ~~Any charge imposed pursuant to §§ 34-45-3 and 34-45-4 and required to be~~

1 collected by the local exchange access company shall be added to, and shall be stated separately
2 in, the billings to the service user. Any service user in the state is liable for the applicable 911
3 emergency surcharge pursuant to § 34-45-4. Any telecommunications service provider, wireless
4 telecommunications service provider, or Interconnected Voice over Internet Protocol service
5 provider shall collect and remit to the governing body the applicable 911 emergency surcharge
6 which shall be stated separately in any billing statement, invoice, or receipt. All prepaid wireless
7 telecommunications service providers shall remit the applicable 911 emergency surcharge for
8 each active prepaid wireless telecommunication service user account in the state to the South
9 Dakota 911 coordination fund. The prepaid wireless telecommunications service provider may
10 seek reimbursement from their service user through whatever means are available to the
11 provider.

12 Section 6. That § 34-45-6 be amended to read as follows:

13 34-45-6. Each billed service user is liable for any charge imposed pursuant to §§ ~~34-45-3~~
14 ~~and § 34-45-4~~ until it has been paid to the local exchange access company service provider.

15 Section 7. That § 34-45-7 be amended to read as follows:

16 34-45-7. ~~The local exchange access company has no obligation to take any legal action to~~
17 ~~enforce the collection of any charge imposed pursuant to this chapter. Such action may be~~
18 ~~brought by or on behalf of the public agency imposing the charge. The local exchange access~~
19 ~~company shall annually provide the governing body a list of the amounts uncollected along with~~
20 ~~the names and addresses of those service users which carry a balance that can be determined by~~
21 ~~the local exchange access company to be the nonpayment of any charge imposed pursuant to~~
22 ~~§§ 34-45-3 and 34-45-4. The local exchange access company~~ Each telecommunications service
23 provider, wireless telecommunications service provider, prepaid wireless telecommunications
24 service provider, or Interconnected Voice over Internet Protocol service provider has no

1 obligation to take any legal action to enforce the collection of any charge imposed pursuant to
2 this chapter. Such action may be brought by or on behalf of the public agency imposing the
3 charge. Each telecommunications service provider, wireless telecommunications service
4 provider, prepaid wireless telecommunications service provider, or Interconnected Voice over
5 Internet Protocol service provider is not liable for such uncollected amounts.

6 Section 8. That § 34-45-8 be amended to read as follows:

7 34-45-8. Any charge imposed pursuant to ~~§§ 34-45-3 and § 34-45-4~~ and the amounts
8 ~~required to be collected are to~~ for telecommunications service, wireless telecommunications
9 service, or Interconnected Voice over Internet Protocol service shall be remitted to the
10 governing body quarterly. ~~The amount of the charge collected in one calendar quarter by the~~
11 ~~local exchange access company shall be remitted to the governing body no later~~ and the amounts
12 collected for prepaid wireless telecommunications service shall be remitted to the South Dakota
13 911 coordination fund not more than thirty days after the close of the calendar quarter. ~~On or~~
14 ~~before the sixteenth day of each month following, a return for the preceding quarter shall be~~
15 ~~filed with the governing body in such form as the governing body and local exchange access~~
16 ~~company shall agree upon. The local exchange access company required to file the return shall~~
17 ~~deliver the~~ which shall include a return to be in such form as required by the board together with
18 a ~~the~~ remittance of the amount of the charge payable, ~~to the governing body. The local exchange~~
19 ~~access company. Each service provider shall maintain a record of collections made for a period~~
20 of one year after the collection.

21 Section 9. That § 34-45-8.1 be repealed.

22 ~~34-45-8.1. Each prepaid wireless telephone calling service provider shall remit the surcharge~~
23 ~~amount on each account for which service has been paid and not yet used to the governing body~~
24 ~~each calendar quarter pursuant to § 34-45-8. The surcharge amount shall be remitted to the~~

1 ~~location associated with the telephone number that is programmed into the wireless telephone~~
2 ~~that will be providing prepaid wireless telephone service. If the prepaid wireless telephone~~
3 ~~calling service provider is unable to determine the location of the customer, the surcharge~~
4 ~~amount shall be remitted based on the place at which the customer paid for the prepaid wireless~~
5 ~~telephone service. The prepaid wireless telephone calling service provider may deduct units of~~
6 ~~usage equivalent to the amount of the surcharge from the unused telecommunication service,~~
7 ~~if the provider has so notified the purchaser at or before the time of purchase.~~

8 Section 10. That § 34-45-9 be amended to read as follows:

9 34-45-9. The ~~local exchange access company~~ service provider may deduct and retain one
10 percent of the collected amount or twenty-five dollars, whichever amount is greater, each month
11 as the cost of administration for collecting the charge.

12 Section 11. That § 34-45-10 be amended to read as follows:

13 34-45-10. At least once every calendar year, prior to September first, the governing body
14 shall review the current charge and establish a rate of charge to be effective on the next January
15 first, not to exceed the amount authorized, that together with any surplus revenues carried
16 forward will produce sufficient revenues to fund the expenditures authorized by §§ 34-45-3 and
17 34-45-4. Any amount collected in excess of expenses within a given year shall be carried
18 forward to the next year. Immediately upon making such determination and fixing such rate, the
19 governing body shall publish its new rate, and it shall notify by registered mail every ~~local~~
20 ~~exchange access company~~ service provider at least ninety days before such new rate will become
21 effective. The governing body may, at its own expense, require an annual audit of ~~the local~~
22 ~~exchange access company's~~ a service provider's books and records concerning the collection and
23 remittance of the charge authorized by §§ 34-45-3 and 34-45-4.

24 Section 12. That § 34-45-12 be amended to read as follows:

1 34-45-12. Funds There is hereby created within the state treasury the South Dakota 911
2 coordination fund. Any funds collected from ~~the charge imposed~~ prepaid wireless
3 telecommunications service pursuant to §§ ~~34-45-3~~ and § 34-45-4 shall be credited to a special
4 fund, apart from the general fund of the public agency, for payments of nonrecurring and
5 recurring costs and for the general operational expense of the 911 related service, including but
6 not limited to the personnel costs of the dispatchers or the monthly contract costs billed by the
7 public safety answering point. If the 911 system is discontinued, any money remaining in the
8 fund after all payments to the service supplier pursuant to this section have been made shall be
9 transferred to the general fund of the public agency or proportionately to the general funds of
10 each participating public agency deposited in the South Dakota 911 coordination fund. The
11 board may authorize disbursements from the fund pursuant to this chapter for approved
12 nonrecurring costs requested by the governing body of eligible 911 public safety answering
13 points.

14 Section 13. That § 34-45-17 be amended to read as follows:

15 34-45-17. The 911 emergency reporting system provided by this chapter is within the
16 governmental powers and authority of the governing body or public agency. In contracting for
17 such 911 emergency reporting system or the provisioning of such 911 service, except for willful
18 or wanton negligence or intentional acts, the governing body, public agency, ~~local exchange~~
19 ~~access company~~ service provider, and service supplier, their employees and agents, are immune
20 from liability for a failure in the use or operation of the 911 system. The immunity provided by
21 this section does not extend to the installation or maintenance of the 911 system.

22 Section 14. That § 34-45-18 be amended to read as follows:

23 34-45-18. There is hereby established the South Dakota 911 ~~Coordinated Statewide System~~
24 ~~Task Force~~. The task force shall evaluate the current 911 emergency reporting system in South

1 ~~Dakota, develop a plan for implementation of a coordinated statewide system covering as much~~
2 ~~of the state as is practicable, and provide recommendations for the implementation, operation,~~
3 ~~and funding of such a coordinated statewide 911 system in a report to the Governor by~~
4 ~~November 30, 1998~~ Coordination Board. The board shall set minimum standards for operation
5 of public safety answering points, determine criteria for reimbursement for nonrecurring costs
6 and the amount of reimbursement, and oversee the coordination of 911 services within the state.

7 Section 15. That § 34-45-18.1 be amended to read as follows:

8 34-45-18.1. The South Dakota 911 ~~Coordinated Statewide System Task Force~~ Coordination
9 Board created pursuant to § 34-45-18 ~~is hereby continued and shall be expanded to include at~~
10 ~~least one representative shall consist of representatives~~ from each of the following groups ~~as~~
11 ~~appointed by the Governor for three-year terms, the initial appointments shall be for staggered~~
12 ~~terms:~~

13 (1) One representative of the South Dakota Chapter of the Association of Public Safety
14 Communication Officials;

15 (2) One representative of the South Dakota Chapter of the National Emergency Numbers
16 Number Association; ~~the South Dakota Emergency Management Association, the~~
17 ~~South Dakota Emergency Medical Technicians Association, the South Dakota~~
18 ~~Firefighters Association;~~

19 (3) Two representatives who are South Dakota service providers;

20 (4) One representative who is an employee of the South Dakota Department of Public
21 Safety;

22 (5) Two representatives of the South Dakota Association of County Commissioners;

23 (6) Two representatives of the South Dakota Municipal League;

24 (7) One representative of the South Dakota Police Chiefs Association; and

1 (8) One representative of the South Dakota Sheriffs Association, and at least one
2 member from an operating public safety answering point system.

3 The Governor shall be provided with a list of ten persons for each board position from each
4 group represented. The Governor has the authority to reject any or all names provided. The
5 Governor may also remove any person appointed to the board at any time without cause. The
6 ~~task force shall~~ board may conduct public hearings to develop and recommend standards for
7 operation and utilization of public safety answering points.

8 Section 16. That § 34-45-18.2 be amended to read as follows:

9 34-45-18.2. The ~~task force shall develop a set of minimum~~ board may promulgate rules
10 pursuant to chapter 1-26 setting:

11 (1) Minimum technical, operational, and procedural standards for the operation and
12 utilization of a public safety answering point;

13 (2) Requirements and amounts for reimbursement of recurring and nonrecurring costs;
14 and

15 (3) Standards for coordination of effective 911 service on a statewide basis.

16 Section 17. That § 34-45-18.3 be repealed.

17 ~~34-45-18.3. Each public safety answering point shall obtain a full audit report on 911 traffic~~
18 ~~from its telephone service provider and provide that information to the task force for use in the~~
19 ~~preparation of the standards. Each public safety answering point shall provide the audit report~~
20 ~~to the task force no later than August 2, 1999.~~

21 Section 18. That § 34-45-19 be amended to read as follows:

22 34-45-19. The Governor shall appoint such persons to the task force as the Governor
23 considers necessary to adequately evaluate the current system and for the development of the
24 implementation of such a system. The task force board is attached to the Department of Military

1 ~~and Veterans Affairs, Division of Emergency Management~~ Public Safety for administrative
 2 purposes. The ~~division~~ department shall assist the ~~task force~~ board and coordinate the
 3 development of the coordinated statewide 911 system. The board may employ a 911 coordinator
 4 within the department to assist with the coordination of the statewide 911 system.

5 Section 19. That § 34-45-20 be amended to read as follows:

6 34-45-20. The ~~task force~~ board shall:

7 (1) Evaluate all of the current public safety answering points and systems throughout the
 8 State of South Dakota for their capability to adequately and efficiently administer
 9 systems;

10 (2) ~~Prepare a cost benefit analysis of administrative and operational expenses for all~~
 11 ~~existing 911 public safety answering points and systems;~~

12 ~~(3) Consider the feasibility and advisability of consolidating jurisdictions or systems for~~
 13 ~~the purposes of more efficiently administering systems and utilizing available funds;~~

14 ~~(4) Prepare alternative~~ Develop plans for the implementation for a coordinated uniform
 15 statewide 911 system covering the entire state or so much as is practicable;

16 ~~(5)(3) Prepare a detailed report of~~ Monitor the number and location of public safety
 17 answering points or systems and the use of 911 emergency surcharge funds in their
 18 administrative and operational ~~revenues and~~ budgets;

19 ~~(6)(4) Provide a report of alternative proposals~~ Develop criteria and minimum standards for
 20 operating and financing public safety answering points or systems; ~~and~~

21 ~~(7)(5) Present its findings, implementation plan and recommendations to the Governor by~~
 22 ~~November 30, 1998, for consideration~~ Develop criteria for the eligibility and amount
 23 of reimbursement of recurring and nonrecurring costs of public safety answering
 24 points or systems;

1 (6) Develop criteria for the implementation of performance audits of the use of the 911
2 fees utilized in the operation of the 911 system. The audit shall be conducted by the
3 Department of Legislative Audit and shall be presented to the board and the
4 Legislature; and

5 (7) Report annually to the Governor and the Legislature about the operations and
6 findings the board and any recommendations for changes to 911 service in the state.

7 Section 20. That chapter 34-45 be amended by adding thereto a NEW SECTION to read as
8 follows:

9 No later than July 1, 2010, each governing body and 911 system shall provide enhanced 911
10 service.

11 Section 21. Notwithstanding any provision of chapter 34-45, no retailer purchasing prepaid
12 wireless telecommunication services or devices for resale is required to collect or remit any 911
13 emergency surcharge.

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

569P0043

SENATE ENGROSSED NO. **SB 153** - 2/11/2008

Introduced by: Senators Smidt (Orville), Olson (Ed), Schmidt (Dennis), and Turbak Berry
and Representatives Tidemann and Kirkeby

1 FOR AN ACT ENTITLED, An Act to authorize the Governor to enter the Midwestern Regional
2 Higher Education Compact and the Western Regional Education Compact, and to provide
3 for the appointment of resident members to both commissions.

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

5 Section 1. The Governor is hereby authorized and directed to enter the Midwestern Regional
6 Higher Education Compact on behalf of the state of South Dakota with all other states legally
7 joining therein in substantially the following form:

MIDWESTERN REGIONAL HIGHER EDUCATION COMPACT

ARTICLE I PURPOSE

10 The purpose of the Midwestern Higher Education Compact is to provide greater higher
11 education opportunities and services in the midwestern region, with the aim of furthering
12 regional access to, research in, and choice of higher education for the citizens residing in the
13 several states which are parties to this compact.

ARTICLE II THE COMMISSION

15 The compacting states create the Midwestern Higher Education Commission. The



1 commission shall be a body corporate of each compacting state. The commission shall have all
2 the responsibilities, powers, and duties set forth in this chapter, including the power to sue and
3 be sued, and such additional powers as may be conferred upon it by subsequent action of the
4 respective legislatures of the compacting states in accordance with the terms of this compact.

5 The commission shall consist of five resident members of each state as follows: the
6 governor or the governor's designee, who shall serve during the tenure of office of the governor;
7 two legislators, one from each house (except Nebraska, which may appoint two legislators from
8 its unicameral legislature), who shall serve two-year terms and be appointed by the appropriate
9 appointing authority in each house of the legislature; and two other at-large members, at least
10 one of whom shall be selected from the field of higher education. The at-large members shall
11 be appointed in a manner provided by the laws of the appointing state. One of the two at-large
12 members initially appointed in each state shall serve a two-year term. The other, and any
13 regularly appointed successor to either at-large member, shall serve a four-year term. All
14 vacancies shall be filled in accordance with the laws of the appointed states. Any commissioner
15 appointed to fill a vacancy shall serve until the end of the incomplete term.

16 The commission shall select annually, from among its members, a chairperson, a vice
17 chairperson, and a treasurer.

18 The commission shall appoint an executive director who shall serve at its pleasure and who
19 shall act as secretary to the commission. The treasurer, the executive director, and such other
20 personnel as the commission may determine shall be bonded in such amounts as the commission
21 may require.

22 The commission shall meet at least once each calendar year. The chairperson may call
23 additional meetings and, upon the request of a majority of the commission members of three or
24 more compacting states, shall call additional meetings. Public notice shall be given of all

1 meetings and meetings shall be open to the public.

2 Each compacting state represented at any meeting of the commission is entitled to one vote.

3 A majority of the compacting states shall constitute a quorum for the transaction of business,
4 unless a larger quorum is required by the bylaws of the commission.

5 ARTICLE III POWERS AND DUTIES OF THE COMMISSION

6 The commission shall adopt a seal and suitable bylaws governing its management and
7 operations.

8 Irrespective of the civil service, personnel, or other merit system laws of any of the
9 compacting states, the commission in its bylaws shall provide for the personnel policies and
10 programs of the compact.

11 The commission shall submit a budget to the governor and legislature of each compacting
12 state at such time and for such period as may be required. The budget shall contain specific
13 recommendations of the amount or amounts to be appropriated by each of the compacting states.

14 The commission shall report annually to the legislatures and governors of the compacting
15 states, to the Midwestern Governors' Conference, and to the Midwestern Legislative Conference
16 of the Council of State Governments concerning the activities of the commission during the
17 preceding year. Such reports shall also embody any recommendations that may have been
18 adopted by the commission.

19 The commission may borrow, accept, or contract for the services of personnel from any state
20 or the United States or any subdivision or agency, from any interstate agency, or from any
21 institution, foundation, person, firm, or corporation.

22 The commission may accept for any of its purposes and functions under the compact any
23 and all donations and grants of money, equipment, supplies, materials, and services (conditional
24 or otherwise) from any state or the United States or any subdivision or agency thereof, or

1 interstate agency, or from any institution, foundation, person, firm, or corporation, and may
2 receive, utilize, and dispose of the same.

3 The commission may enter into agreements with any other interstate education organizations
4 or agencies and with higher education institutions located in nonmember states and with any of
5 the various states of these United States to provide adequate programs and services in higher
6 education for the citizens of the respective compacting states. The commission shall, after
7 negotiations with interested institutions and interstate organizations or agencies, determine the
8 cost of providing the programs and services in higher education for use of these agreements.

9 The commission may establish and maintain offices, which shall be located within one or
10 more of the compacting states.

11 The commission may establish committees and hire staff as it deems necessary for the
12 carrying out of its functions.

13 The commission may provide for actual and necessary expenses for attendance of its
14 members at official meetings of the commission or its designated committees.

15 ARTICLE IV ACTIVITIES OF THE COMMISSION

16 The commission shall collect data on the long-range effects of the compact on higher
17 education. By the end of the fourth year from the effective date of the compact and every two
18 years thereafter, the commission shall review its accomplishments and make recommendations
19 to the governors and legislatures of the compacting states on the continuance of the compact.

20 The commission shall study issues in higher education of particular concern to the
21 midwestern region. The commission shall also study the needs for higher education programs
22 and services in the compacting states and the resources for meeting such needs. The commission
23 shall from time to time prepare reports on such research for presentation to the governors and
24 legislatures of the compacting states and other interested parties. In conducting such studies, the

1 commission may confer with any national or regional planning body. The commission may
2 redraft and recommend to the governors and legislatures of the various compacting states
3 suggested legislation dealing with problems of higher education.

4 The commission shall study the need for provision of adequate programs and services in
5 higher education, such as undergraduate, graduate, or professional student exchanges in the
6 region. If a need for exchange in a field is apparent, the commission may enter into such
7 agreements with any higher education institution and with any of the compacting states to
8 provide programs and services in higher education for the citizens of the respective compacting
9 states. The commission shall, after negotiations with interested institutions and the compacting
10 states, determine the costs of providing the programs and services in higher education for use
11 in its agreements. The contracting states shall contribute the funds not otherwise provided, as
12 determined by the commission, for carrying out the agreements. The commission may also serve
13 as the administrative and fiscal agent in carrying out agreements for higher education programs
14 and services.

15 The commission shall serve as a clearinghouse on information regarding higher education
16 activities among institutions and agencies.

17 In addition to the activities of the commission previously noted, the commission may
18 provide services and research in other areas of regional concern.

19 ARTICLE V FINANCE

20 The moneys necessary to finance the general operations of the commission, not otherwise
21 provided for, in carrying forth its duties, responsibilities, and powers as stated herein shall be
22 appropriated to the commission by the compacting states, when authorized by the respective
23 legislatures, by equal apportionment among the compacting states.

24 The commission shall not incur any obligations of any kind prior to the making of

1 appropriations adequate to meet the same; nor shall the commission pledge the credit of any of
2 the compacting states, except by and with the authority of the compacting state.

3 The commission shall keep accurate accounts of all receipts and disbursements. The receipts
4 and disbursements of the commission shall be subject to the audit and accounting procedures
5 established under its bylaws. However, all receipts and disbursements of funds handled by the
6 commission shall be audited yearly by a certified or licensed public accountant and the report
7 of the audit shall be included in and become part of the annual report of the commission.

8 The accounts of the commission shall be open at any reasonable time for inspection by duly
9 authorized representatives of the compacting states and persons authorized by the commission.

10 ARTICLE VI ELIGIBLE PARTIES AND ENTRY INTO FORCE

11 The states of Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska,
12 North Dakota, Ohio, South Dakota, and Wisconsin shall be eligible to become party to this
13 compact. Additional states will be eligible if approved by a majority of the compacting states.

14 As to any eligible party state, this compact shall become effective when its legislature shall
15 have enacted the same into law.

16 Amendments to the compact shall become effective upon their enactment by the legislatures
17 of all compacting states.

18 ARTICLE VII WITHDRAWAL, DEFAULT, AND TERMINATION

19 Any compacting state may withdraw from this compact by enacting a statute repealing the
20 compact, but such withdrawal shall not become effective until two years after the enactment of
21 such statute. A withdrawing state shall be liable for any obligations which it may have incurred
22 on account of its party status up to the effective date of withdrawal, except that if the
23 withdrawing state has specifically undertaken or committed itself to any performance of an
24 obligation extending beyond the effective date of withdrawal, it shall remain liable to the extent

1 of such obligation.

2 If any compacting state shall at any time default in the performance of any of its obligations,
3 assumed or imposed, in accordance with the provisions of this compact, all rights, privileges,
4 and benefits conferred by this compact or agreements hereunder shall be suspended from the
5 effective date of such default as fixed by the commission, and the commission shall stipulate
6 the conditions and maximum time for compliance under which the defaulting state may resume
7 its regular status. Unless such default shall be remedied under the stipulations and within the
8 time period set forth by the commission, this compact may be terminated with respect to such
9 defaulting state by affirmative vote of a majority of the other member states. Any such
10 defaulting state may be reinstated by performing all acts and obligations as stipulated by the
11 commission.

12 ARTICLE VIII SEVERABILITY AND CONSTRUCTION

13 The provisions of this compact entered into hereunder shall be severable and if any phrase,
14 clause, sentence, or provision of this compact is declared to be contrary to the Constitution of
15 any compacting state or of the United States or the applicability thereof to any government,
16 agency, person, or circumstance is held invalid, the validity of the remainder of this compact and
17 the applicability thereof to any government, agency, person, or circumstance shall not be
18 affected thereby. If this compact entered into hereunder shall be held contrary to the constitution
19 of any compacting state, the compact shall remain in full force and effect as to the remaining
20 states and in full force and effect as to the state affected as to all severable matters. The
21 provisions of this compact entered into pursuant hereto shall be liberally construed to effectuate
22 the purposes thereof.

23 Section 2. The members of the Midwestern Regional Higher Education Commission
24 representing this state are as follows:

- 1 (1) The Governor or a designee of the Governor who shall serve throughout the
2 Governor's tenure in office;
- 3 (2) One member of the Senate appointed by the Executive Board of the Legislative
4 Research Council;
- 5 (3) One member of the House of Representatives appointed by the Executive Board of
6 the Legislative Research Council;
- 7 (4) One member of the general public from the field of higher education appointed by
8 the executive director of the Board of Regents; and
- 9 (5) One member of the general public from the field of career and technical education
10 appointed by the secretary of the Department of Education.

11 The members of the Legislature appointed to the commission shall each serve a term of two
12 years. The members of the general public appointed to the commission shall each serve a term
13 of four years, except that one of the members of the general public initially appointed shall serve
14 a term of two years.

15 The initial appointments shall be made no later than thirty days after the effective date of
16 this Act. If a vacancy occurs, the remainder of the unexpired term shall be filled in the same
17 manner as the original appointment.

18 Section 3. The Governor is hereby authorized and directed to enter the Western Regional
19 Education Compact on behalf of the State of South Dakota with all other states legally joining
20 therein in substantially the following form:

21 WESTERN REGIONAL EDUCATION COMPACT

22 Entered into by and between the States and Territories signatory hereto, to provide
23 acceptable and efficient educational facilities to meet the needs of the Western Region of the
24 United States of America.

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ARTICLE I

Whereas, the future of this Nation and of the Western States is dependent upon the quality of the education of its youth; and

Whereas, many of the Western States individually do not have sufficient numbers of potential students to warrant the establishment and maintenance within their borders of adequate facilities in all of the essential fields of technical, professional, and graduate training, nor do all the states have the financial ability to furnish within their borders institutions capable of providing acceptable standards of training in all of the fields mentioned above; and

Whereas, it is believed that the Western States, or groups of such states within the Region, cooperatively can provide acceptable and efficient educational facilities to meet the needs of the Region and of the students thereof:

Now, therefore, the States of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming, and the Territories of Alaska and Hawaii do hereby Covenant and agree as follows:

ARTICLE II

Each of the compacting states and territories pledges to each of the other compacting states and territories faithful cooperation in carrying out all the purposes of this Compact.

ARTICLE III

The compacting states and territories hereby create the Western Interstate Commission for Higher Education, hereinafter called the Commission. Said Commission shall be a body corporate of each compacting state and territory and an agency thereof. The Commission shall have all the powers and duties set forth herein, including the power to sue and be sued, and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states and territories.

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ARTICLE IV

The Commission shall consist of three resident members from each compacting state or territory. At all times one Commissioner from each compacting state or territory shall be an educator engaged in the field of higher education in the state or territory from which he is appointed.

The Commissioners from each state and territory shall be appointed by the Governor thereof as provided by law in such state or territory. Any Commissioner may be removed or suspended from office as provided by the law of the state or territory from which he shall have been appointed.

The terms of each Commissioner shall be four years: Provided, however, that the first three Commissioners shall be appointed as follows; one for two years, one for three years, and one for four years. Each Commissioner shall hold office until his successor shall be appointed and qualified. If any office becomes vacant for any reason, the Governor shall appoint a Commissioner to fill the office for the remainder of the unexpired term.

ARTICLE V

Any business transacted at any meeting of the Commission must be by affirmative vote of a majority of the whole number of compacting states and territories.

One or more Commissioners from a majority of the compacting states and territories shall constitute a quorum for the transaction of business.

Each compacting state and territory represented at any meeting of the Commission is entitled to one vote.

ARTICLE VI

The Commission shall elect from its number a chairman and a vice chairman and may appoint, and at its pleasure dismiss or remove, such officers, agents, and employees as may be

1 required to carry out the purpose of this Compact; and shall fix and determine their duties,
2 qualifications and compensation, having due regard for the importance of the responsibilities
3 involved.

4 The Commissioners shall serve without compensation, but shall be reimbursed for their
5 actual and necessary expenses from the funds of the Commission.

6 ARTICLE VII

7 The Commission shall adopt a seal and by-laws and shall adopt and promulgate rules and
8 regulations for its management and control.

9 The Commission may elect such committees as it deems necessary for the carrying out of
10 its functions.

11 The Commission shall establish and maintain an office within one of the compacting states
12 for the transactions of its business and may meet at any time, but in any event must meet at least
13 once a year. The Chairman may call such additional meetings and upon the request of a majority
14 of the Commissioners of three or more compacting states or territories shall call additional
15 meetings.

16 The Commission shall submit a budget to the Governor of each compacting state and
17 territory at such time and for such period as may be required.

18 The Commission shall, after negotiations with interested institutions, determine the cost of
19 providing the facilities for graduate and professional education for use in its contractual
20 agreements throughout the Region.

21 On or before the fifteenth day of January of each year, the Commission shall submit to the
22 Governors and Legislatures of the compacting states and territories a report of its activities for
23 the preceding calendar year.

24 The Commission shall keep accurate books of account, showing in full its receipts and

1 disbursements, and said books of account shall be open at any reasonable time for inspection
2 by the Governor of any compacting state or territory or his designated representative. The
3 Commission shall not be subject to audit and accounting procedure of any of the compacting
4 states or territories. The Commission shall provide for an independent annual audit.

5 ARTICLE VIII

6 It shall be the duty of the Commission to enter into such contractual agreements with any
7 institutions in the Region offering graduate or professional education and with any of the
8 compacting states or territories as may be required in the judgment of the Commission to
9 provide adequate services and facilities of graduate and professional education for the citizens
10 of the respective compacting states or territories. The Commission shall first endeavor to
11 provide adequate services and facilities in the fields of dentistry, medicine, public health, and
12 veterinary medicine, and may undertake similar activities in other professional and graduate
13 fields.

14 For this purpose the Commission may enter into contractual agreements:

- 15 (a) With the governing authority of any educational institution in the Region, or with any
16 compacting state or territory, to provide such graduate or professional educational
17 services upon terms and conditions to be agreed upon between contracting parties,
18 and
- 19 (b) With the governing authority of any educational institution in the Region or with any
20 compacting state or territory to assist in the placement of graduate or professional
21 students in educational institutions in the Region providing the desired services and
22 facilities, upon such terms and conditions as the Commission may prescribe.

23 It shall be the duty of the Commission to undertake studies of needs for professional and
24 graduate educational facilities in the Region, the resources for meeting such needs, and the

1 long-range effects of the Compact on higher education; and from time to time to prepare
2 comprehensive reports on such research for presentation to the Western Governors' Conference
3 and to the legislatures of the compacting states and territories. In conducting such studies, the
4 Commission may confer with any national or regional planning body which may be established.

5 The Commission shall draft and recommend to the Governors of the various compacting
6 states and territories, uniform legislation dealing with problems of higher education in the
7 Region.

8 For the purposes of this Compact the word "Region" shall be construed to mean the
9 geographical limits of the several compacting states and territories.

10 ARTICLE IX

11 The operating costs of the Commission shall be apportioned equally among the compacting
12 states and territories.

13 ARTICLE X

14 This Compact shall become operative and binding immediately as to those states and
15 territories adopting it whenever five or more of the states or territories of Arizona, California,
16 Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, Wyoming,
17 Alaska and Hawaii have duly adopted it prior to July 1, 1953. This Compact shall become
18 effective as to any additional states or territories adopting thereafter at the time of such adoption.

19 ARTICLE XI

20 This Compact may be terminated at any time by consent of a majority of the compacting
21 states and territories. Consent shall be manifested by passage and signature in the usual manner
22 of legislation expressing such consent by the legislature and Governor of such terminating state.
23 Any state or territory may at any time withdraw from this Compact by means of appropriate
24 legislation to that end. Such withdrawal shall not become effective until two years after written

1 notice thereof by the Governor of the withdrawing state or territory accompanied by a certified
2 copy of requisite legislative action is received by the Commission. Such withdrawal shall not
3 relieve the withdrawing state or territory from its obligations hereunder accruing prior to the
4 effective date of withdrawal. The withdrawing state or territory may rescind its action of
5 withdrawal at any time within the two-year period. Thereafter, the withdrawing state or territory
6 may be reinstated by application to and the approval by a majority vote of the Commission.

7 ARTICLE XII

8 If any compacting state or territory shall at any time default in the performance of any of its
9 obligations assumed or imposed in accordance with the provisions of this Compact, all rights,
10 privileges and benefits conferred by this Compact or agreements hereunder shall be suspended
11 from the effective date of such default as fixed by the Commission.

12 Unless such default shall be remedied within a period of two years following the effective
13 date of such default, this Compact may be terminated with respect to such defaulting state or
14 territory by affirmative vote of three-fourths of the other member states or territories.

15 Any such defaulting state may be reinstated by: (a) performing all acts and obligations upon
16 which it has heretofore defaulted, and (b) application to and the approval by a majority vote of
17 the Commission.

18 Section 4. The Governor shall appoint three commissioners to represent the State of South
19 Dakota on the Western Interstate Commission for Higher Education, including at least one
20 commissioner who is an educator engaged in the field of higher education in the state.

21 The commissioners shall each serve a term of four years, except that the first three
22 commissioners shall serve as follows: one for two years, one for three years, and one for four
23 years.

24 The Governor may remove any appointed commissioner for cause, after a hearing prior to

1 the expiration of the commissioner's term.

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

916P0652

SENATE HEALTH AND HUMAN SERVICES ENGROSSED NO. **SB 161** - 1/30/2008

Introduced by: Senators Nesselhuf and Abdallah and Representatives Rhoden and Thompson

1 FOR AN ACT ENTITLED, An Act to create the South Dakota Boxing Commission and to
2 provide for the supervision of boxing and kickboxing competitions and sparring exhibitions
3 in the state.

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

5 Section 1. There is hereby created the South Dakota Boxing Commission consisting of five
6 members appointed by the Governor. The initial members to be appointed shall draw lots to
7 determine who will hold the two three-year terms, the two two-year terms, and the one one-year
8 term. Thereafter, each member shall serve terms of three years, but no member may serve more
9 than three consecutive terms.

10 Section 2. The commission shall supervise all boxing or kickboxing competitions and
11 sparring exhibitions held in the state and shall promulgate rules pursuant to chapter 1-26 to:

- 12 (1) Govern the conduct of boxing or kickboxing competitions, and sparring exhibitions;
13 (2) Establish license fees for all boxers, kickboxers, boxing and kickboxing promoters,
14 managers, judges, timekeepers, cornerpersons, knockdown counters, matchmakers,
15 and referees or other participants; and



1 (3) Establish a fee based on the percentage of gross revenues from any boxing or
2 kickboxing competition or sparring exhibition held in the state to pay for the
3 expenses of the South Dakota Boxing Commission. However, no fee established
4 pursuant to this subdivision may exceed five percent of the gross revenues of the
5 competition or exhibition from any and all sources including cable television and
6 pay-per-view telecasts of the event, exclusive of any federal tax thereon.

7 Section 3. All fees collected pursuant to this Act shall be placed in the boxing commission
8 fund that is hereby established in the state treasury. All money deposited in the fund is
9 continuously appropriated to pay for the administration of this Act and for the compensation and
10 expenses of members of the South Dakota Boxing Commission.

11 Section 4. Boxing or kickboxing competitions or sparring exhibitions held in any city in this
12 state shall be held in conformity to the ordinances of that city, in addition to the requirements
13 of this Act. No boxing or kickboxing competition or sparring exhibition may be held in a city
14 where such contests or exhibitions are prohibited by ordinance.

15 Section 5. All boxing or sparring exhibitions conducted by bona fide educational institutions
16 or by national amateur boxing associations or their local affiliates are exempt from this Act.

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

171P0642

HOUSE APPROPRIATIONS ENGROSSED NO. **SB 172** - 2/25/2008

Introduced by: Senators Abdallah, Apa, Bartling, Dempster, Duenwald, Gant, Garnos, Gray, Greenfield, Hansen (Tom), Hanson (Gary), Hauge, Heidepriem, Hoerth, Hundstad, Hunhoff, Jerstad, Katus, Kloucek, Knudson, Koetzle, Lintz, Maher, McCracken, McNenny, Napoli, Nesselhuf, Olson (Ed), Peterson (Jim), Schmidt (Dennis), Smidt (Orville), Sutton, Turbak Berry, and Two Bulls and Representatives Gilson, Ahlers, Boomgarden, Bradford, Brunner, Buckingham, Burg, Cutler, Dennert, Elliott, Engels, Faehn, Feinstein, Gassman, Gillespie, Glenski, Gosch, Hackl, Halverson, Hargens, Haverly, Hills, Howie, Hunt, Jerke, Kirkeby, Koistinen, Krebs, Lucas, McLaughlin, Miles, Moore, Nelson, Noem, Novstrup (Al), Novstrup (David), Olson (Betty), Peters, Putnam, Rave, Sigdestad, Steele, Street, Thompson, Turbiville, Van Etten, Van Norman, Vanneman, Weems, Wick, and Willadsen

1 FOR AN ACT ENTITLED, An Act to appropriate money to the Department of Public Safety
2 to fund the South Dakota Highway Patrol.

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

4 Section 1. There is hereby appropriated from the general fund the sum of one dollar (\$1),
5 or so much thereof as may be necessary, to the Department of Public Safety for the purpose of
6 funding the South Dakota Highway Patrol.

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

9 Section 3. Any amounts appropriated in this Act not lawfully expended or obligated by June



1 30, 2009, shall revert in accordance with the procedures prescribed in chapter 4-8.

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

843P0591

SENATE ENGROSSED NO. **SB 174** - 2/12/2008

Introduced by: Senators Hansen (Tom), Abdallah, Albers, Bartling, Dempster, Duenwald, Gant, Garnos, Greenfield, Hanson (Gary), Hauge, Hunhoff, Koetzle, McCracken, Olson (Ed), Peterson (Jim), and Sutton and Representatives Rave, Boomgarden, Brunner, Burg, Cutler, Davis, Deadrick, Dennert, Dykstra, Faehn, Gassman, Gilson, Glenski, Halverson, Hargens, Haverly, Heineman, Juhnke, Kirkeby, Krebs, McLaughlin, Miles, Moore, Noem, Novstrup (Al), Novstrup (David), Olson (Russell), Pederson (Gordon), Peters, Steele, Street, Van Etten, Vanneman, Weems, Wick, and Willadsen

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to the exercise of
2 eminent domain by railroads.

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

4 Section 1. That § 49-16A-75 be amended to read as follows:

5 49-16A-75. A railroad may exercise the right of eminent domain in acquiring right-of-way
6 as provided by statute, but only upon obtaining authority from the Governor or if directed by the
7 Governor, or the commission, based upon a determination by the Governor or the commission
8 that the railroad's exercise of the right of eminent domain would be for a public use consistent
9 with public necessity. The Governor or the commission shall consider the requirements of
10 §§ 49-16A-75.1 to 49-16A-75.3, inclusive, when granting or denying an application for
11 authority to use eminent domain. The decision to grant or deny an application shall be made
12 after reasonable notice and opportunity to be heard, pursuant to chapter 1-26. However, an



1 impartial hearing examiner may be appointed by the Governor or the commission to administer
2 the proceedings or make recommendations. Any parties who are united in interest or
3 representation shall unite in the filing of an affidavit for change of hearing examiner under the
4 provisions of § 1-26D-10. The filing of such affidavit by one party is deemed to be filed by all
5 of the parties. No more than one change of hearing examiner may be granted on request or
6 affidavit made by or on behalf of the same party or parties united in interest under the provisions
7 of § 1-26D-10. However, the filing of an affidavit and the first change of hearing examiner does
8 not prevent any other party to the action or any party's attorney from obtaining a change in
9 hearing examiner upon a showing of an unacceptable risk of actual bias or prejudice concerning
10 a party. The Governor or the chair of the commission shall replace the hearing examiner within
11 five business days upon any recusal. A hearing shall be held and a decision rendered on any
12 application within ninety days following the receipt of a new application and upon any
13 application pending before the Governor or the commission on the effective date of this Act.

14 The denial or withdrawal of an application does not prejudice the ability of a railroad to
15 resubmit an application. Any appeal, pursuant to chapter 1-26, taken from a decision of the
16 Governor or the commission shall be handled as an expedited appeal by the courts of this state.

17 Section 2. That § 49-16A-75.3 be amended to read as follows:

18 49-16A-75.3. A railroad's exercise of the right of eminent domain is a public use consistent
19 with public necessity only if the use of eminent domain is proposed by an applicant who has
20 negotiated in good faith to privately acquire sufficient property without the use of eminent
21 domain. No determination of public use or necessity or any other issue properly decided by the
22 Governor or the commission may be addressed by the circuit court in an action for
23 condemnation. Such a determination may only be challenged upon direct appeal of that
24 determination. Notwithstanding appeal of such determination, the railroad may proceed at any

1 time by action in circuit court for possession and determination of compensation for any real
2 property taken or damaged.

3 Section 3. That chapter 49-16A be amended by adding thereto a NEW SECTION to read
4 as follows:

5 Upon a failure to reach agreement on compensation following a determination pursuant to
6 § 49-16A-75.3, either party may bring a proceeding in state court to establish compensation to
7 be paid for the property taken or damaged. The court shall expedite the proceedings. A railroad
8 is not entitled to physical possession of the property to be taken pursuant to the exercise of
9 eminent domain except upon the earlier to occur of either:

- 10 (1) Execution of a written agreement between the parties as to fair market value of
11 compensation;
- 12 (2) Entry of a judgment of condemnation in the circuit court; or
- 13 (3) Upon posting by the railroad of a bond to be established by the court as soon as
14 possible but no later than one hundred twenty days following petition by the railroad
15 for possession. The bond shall be in an amount the court determines to be a
16 preliminary estimate of compensation based on the best information available, but
17 is not determinative of final compensation or admissible as evidence thereon.

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

715P0168

SENATE HEALTH AND HUMAN SERVICES

ENGROSSED NO. **SB 182** - 2/6/2008

Introduced by: Senators Dempster, Hansen (Tom), Heidepriem, Jerstad, Katus, McCracken, Napoli, and Smidt (Orville) and Representatives Dykstra, Cutler, Dennert, Halverson, Hunt, Krebs, Lust, Miles, Rave, Street, and Willadsen

1 FOR AN ACT ENTITLED, An Act to expand the disclosure of inpatient hospital charges and
2 to provide for the development of a system for the disclosure of charges for outpatient
3 procedures.

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

5 Section 1. That § 34-12E-11 be amended to read as follows:

6 34-12E-11. Any hospital licensed pursuant to chapter 34-12 shall report annually to the
7 ~~Department of Health the charges for the twenty-five most common inpatient diagnostic-related~~
8 ~~groups~~ South Dakota Association of Healthcare Organizations the charge information as
9 described in § 34-12E-13 for that hospital's All Patient Refined Diagnosis-Related Groups for
10 which ~~there are~~ that hospital had at least ten cases ~~rendered by the hospital~~ during the twelve
11 months preceding the report. The Department of Health shall promulgate rules pursuant to
12 chapter 1-26 to provide for the reporting of ~~charges~~ the charge information by hospitals. The
13 rules shall include:

14 (1) The method for hospitals to report charges ~~to the department; and~~ and



- 1 (2) Standards that provide for the validity and comparability of charge reports; ~~and~~
- 2 ~~(3) The format for making charge reports available to the public.~~

3 Section 2. That chapter 34-12E be amended by adding thereto a NEW SECTION to read as
4 follows:

5 The South Dakota Association of Healthcare Organizations shall develop a web-based
6 system, available to the public at no cost, for reporting the charge information of hospitals. The
7 charge information shall include disclaimers regarding factors, including case severity ratings
8 and individual patient variations, which may affect actual charges to a patient for services
9 rendered. The website shall provide information that compares hospital-specific data to hospital
10 statewide data. The website shall be established by June 1, 2009, and shall be updated no less
11 than annually.

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

13 34-12E-12. The Department of Health shall ~~make available the hospital charge reports~~
14 ~~required by § 34-12E-11~~ provide a link to the web-based system developed pursuant to section
15 2 of this Act on its website. ~~The charge reports shall include disclaimers regarding factors,~~
16 ~~including case severity ratings and individual patient variations, which may affect actual charges~~
17 ~~to a patient for services rendered. Upon request, the department shall provide the charge reports~~
18 ~~by first class mail.~~

19 Section 4. That § 34-12E-13 be amended to read as follows:

20 34-12E-13. For the purposes of §§ 34-12E-11 to 34-12E-13, ~~inclusive~~ and section 2 of this
21 Act, the term, charge information, is that amount that a hospital would expect to charge for an
22 ~~inpatient diagnostic-related group. Any charge that is required by §§ 34-12E-11 to 34-12E-13,~~
23 ~~inclusive, to be reported to the public shall be the median charge for all cases of the diagnostic-~~
24 ~~related group occurring in the twelve months preceding the report~~ includes the number of

1 discharges; average length of stay; average charge; median charge; demographic information;
2 payer mix; charges not paid and charges paid by medicare, medicaid, and other government
3 programs, and private insurance; and uncompensated care.

4 Section 5. That chapter 34-12E be amended by adding thereto a NEW SECTION to read as
5 follows:

6 The Department of Health shall, in collaboration with the South Dakota Association of
7 Healthcare Organizations and the South Dakota State Medical Association, develop a list of
8 outpatient procedures for the purpose of disclosure of charges to the public. The list shall be
9 developed by December 31, 2008.

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

808P0713

SENATE STATE AFFAIRS ENGROSSED NO. **SB 186** - 2/6/2008

Introduced by: Senators Knudson, Albers, Dempster, Gant, Gray, and Hansen (Tom) and Representatives Rhoden, Brunner, Cutler, Deadrick, Dykstra, Faehn, Heineman, Krebs, Olson (Russell), Rave, Turbiville, and Vehle

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding public records.

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

3 Section 1. That § 1-26D-4 be amended to read as follows:

4 1-26D-4. Hearing examiners have all powers delineated in §§ 1-26-19.1 and 1-26-19.2 and
5 shall hear all contested cases that arise under Titles 10 and 58 and chapter 1-27.

6 Section 2. That chapter 1-27 be amended by adding thereto a NEW SECTION to read as
7 follows:

8 The provisions of this Act do not apply to the Unified Judicial System or Public Utilities
9 Commission.

10 Section 3. That chapter 1-27 be amended by adding thereto a NEW SECTION to read as
11 follows:

12 Any informal request for disclosure of documents or records shall be made to the custodian
13 of the record. The custodian of the record may then provide the requestor with the document or
14 record upon payment of the actual cost of mailing or transmittal and a fee not to exceed one



1 dollar per page, the actual cost of reproduction if greater than one dollar per page, or other fee
2 established by statute or administrative rule. A requestor that makes an informal request
3 requiring the dedication of staff time in excess of one hour may be required to pay the cost of
4 the staff time necessary for the location, assembly, or reproduction of the public record.

5 Section 4. That chapter 1-27 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 For any informal request reasonably likely to involve a fee in excess of fifty dollars, the
8 custodian shall provide an estimate of cost to the requestor prior to assembling the documents
9 or records and the requestor shall confirm in writing his or her acceptance of the cost estimate
10 and agreement to pay. The custodian may exercise discretion to waive or reduce any fee required
11 under this section if the waiver or reduction of the fee would be in the public interest.

12 Section 5. That chapter 1-27 be amended by adding thereto a NEW SECTION to read as
13 follows:

14 If an informal request is denied in whole or in part by the custodian of a document or record,
15 a written request may be made by the requestor pursuant to this section:

16 (1) A written request may be made to the public record officer of the public entity
17 involved. The public record officer shall promptly respond to the written request but
18 in no event later than ten business days from receipt of the request. The public record
19 officer shall respond to the request by:

20 (a) Providing the record in whole or in part to the requestor upon payment of any
21 applicable fees pursuant to sections 3 and 4 of this Act;

22 (b) Denying the request for the record; or

23 (c) Acknowledging that the public record officer has received the request and
24 providing an estimate of the time reasonably required to further respond

1 thereto;

2 (2) Additional time to respond to the written request under subsection (1)(c) of this
3 section may be based upon the need to clarify the nature and scope of the written
4 request, to locate and assemble the information requested, to notify any third persons
5 or government agencies affected by the written request, or to determine whether any
6 of the information requested is not subject to disclosure and whether a denial should
7 be made as to all or part of the written request;

8 (3) If a written request is unclear, the public record officer may require the requestor to
9 clarify which records are being sought. If the requestor fails to provide a written
10 response to the public record officer's request for clarification within ten business
11 days, the request shall be deemed withdrawn and no further action by the public
12 records officer is required;

13 (4) If the public record officer denies a written request in whole or in part, the denial
14 shall be accompanied by a written statement of the reasons for the denial;

15 (5) If the public record officer fails to respond to a written request within ten business
16 days, or fails to comply with the estimate provided under subsection (1)(3) of this
17 section without provision of a revised estimate, the request shall be deemed denied.

18 Section 6. That chapter 1-27 be amended by adding thereto a NEW SECTION to read as
19 follows:

20 If a public record officer denies a written request in whole or in part, or if the requestor
21 objects to the public record officer's estimate of fees or time to respond to the request, a
22 requestor may within ninety days of the denial commence a civil action by summons or, in the
23 alternative, file a written notice of review with the Office of Hearing Examiners. The notice of
24 review shall be mailed, via registered or certified mail, to the Office of Hearing Examiners and

1 shall contain:

- 2 (1) The name, address, and telephone number of the requestor;
- 3 (2) The name and business address of the public record officer denying the request;
- 4 (3) The name and business address of the agency, political subdivision, municipal
5 corporation, or other entity from which the request has been denied;
- 6 (4) A copy of the written request;
- 7 (5) A copy of any denial or response from the public record officer; and
- 8 (6) Any other information relevant to the request that the requestor desires to be
9 considered.

10 Section 7. That chapter 1-27 be amended by adding thereto a NEW SECTION to read as
11 follows:

12 Upon receipt, the Office of Hearing Examiners shall promptly mail a copy of the notice of
13 review filed pursuant to section 6 of this Act and all information submitted by the requestor to
14 the public record officer named in the notice of review. The entity denying the written request
15 may then file a written response to the Office of Hearing Examiners within ten business days.
16 If the entity does not file a written response within ten business days, the Office of Hearing
17 Examiners shall act on the information provided. The Office of Hearing Examiners shall
18 provide a reasonable extension of time to file a written response upon written request or
19 agreement of parties.

20 Section 8. That chapter 1-27 be amended by adding thereto a NEW SECTION to read as
21 follows:

22 Upon receipt and review of the submissions of the parties, the Office of Hearing Examiners
23 shall make written findings of fact and conclusions of law, and a decision as to the issue
24 presented. Before issuing a decision, the Office of Hearing Examiners may hold a hearing

1 pursuant to chapter 1-26 if good cause is shown.

2 Section 9. That chapter 1-27 be amended by adding thereto a NEW SECTION to read as
3 follows:

4 The aggrieved party may appeal the decision of the Office of Hearing Examiners to the
5 circuit court pursuant to chapter 1-26.

6 Section 10. That chapter 1-27 be amended by adding thereto a NEW SECTION to read as
7 follows:

8 The public record officer for the state is the secretary, constitutional officer, elected official,
9 or commissioner of the department, office, or other division to which a request is directed. The
10 public record officer for a county is the county auditor or the custodian of the record for law
11 enforcement records. The public record officer for a first or second class municipality is the
12 finance officer or the clerk or the custodian of the record for law enforcement records. The
13 public record officer for a third class municipality is the president of the board of trustees or the
14 custodian of the record for law enforcement records. The public record officer for an organized
15 township is the township clerk. The public record officer for a school district is the district
16 superintendent or CEO. The public record officer for a special district is the chairperson of the
17 board of directors. The public record officer for any other entity not otherwise designated is the
18 person who acts in the capacity of the chief financial officer or individual as designated by the
19 entity.

20 Section 11. That chapter 1-27 be amended by adding thereto a NEW SECTION to read as
21 follows:

22 The following forms are prescribed for use in the procedures provided for in sections 3 to
23 10, inclusive, of this Act, but failure to use or fill out completely or accurately any of the forms
24 does not void acts done pursuant to those sections provided compliance with the information

1 required by those sections is provided in writing.

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<p>NOTICE OF REVIEW</p> <p>REQUEST FOR DISCLOSURE OF PUBLIC RECORDS</p>

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Date of Request:	_____
Name of Requestor:	_____
Address of Requestor:	_____
Telephone Number of Requestor:	_____

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Type of Review Being Sought:
___ Request for Specific Record
___ Estimate of Fees
___ Estimate of Time to Respond
Short Explanation of Review Being Sought Including Specific Records Requested:

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24

Name of Public Record Officer:	_____
Address of Public Record Officer:	_____
Name of Governmental Entity:	_____
Address of Governmental Entity:	_____

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You must include with the submission of this Notice of Review - Request for Disclosure of Public Records form the following information: (1) A copy of your written request to the public record officer; (2) A copy of the public record officer's denial or response to your written

1 *request, if any; and (3) Any other information relevant to the request that you desire to be*
2 *considered.*

3 *I hereby certify that the above information is true and correct to the best of my knowledge.*

4 ***Signature of Requestor:*** _____

5 *The Notice of Review - Request for Disclosure of Public Records form shall be completed and*
6 *submitted, via registered or certified mail, return receipt, to the following address:*

7 Office of Hearing Examiners

8 500 E. Capitol Avenue

9 Pierre, South Dakota 57501

10 605-773-6811

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SOUTH DAKOTA OFFICE OF HEARING EXAMINERS
NOTICE OF REQUEST FOR DISCLOSURE
OF PUBLIC RECORDS

TO: (Public Record Officer & Governmental Entity) _____

_____ has filed a Notice of Review - Request for Disclosure of Public Records. A copy of the Notice of Review - Request for Disclosure of Public Records is attached for your review.

You may file a written response to the Notice of Review - Request for Disclosure of Public Records within ten (10) business days of receiving this notice, exclusive of the day of service, at the following address:

Office of Hearing Examiners
500 E. Capitol Avenue
Pierre, South Dakota 57501
605-773-6811

The Office of Hearing Examiners may issue its written decision on the information provided and will only hold a hearing if it deems a hearing necessary.

If you have any questions, please contact the Office of Hearing Examiners.

Dated this ___ day of _____, 20__.

Office of Hearing Examiners

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

427P0565

HOUSE STATE AFFAIRS

ENGROSSED NO. **SB 187** - 2/25/2008

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

Introduced by: Senators Knudson, Abdallah, Albers, Bartling, Dempster, Garnos, Gray, Hansen (Tom), Hauge, Heidepriem, Hunhoff, McCracken, Nesselhuf, Olson (Ed), and Peterson (Jim) and Representatives Cutler, McLaughlin, Peters, and Vehle

- 1 FOR AN ACT ENTITLED, An Act to enhance education in South Dakota.
- 2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:
- 3 Section 1. Education in South Dakota is hereby enhanced.



State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

924P0521

HOUSE STATE AFFAIRS

ENGROSSED NO. **SB 190** - 2/22/2008

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

Introduced by: Senators Hanson (Gary), Abdallah, Bartling, Heidepriem, Kloucek, Maher, Nesselhuf, Peterson (Jim), and Smidt (Orville) and Representatives Moore, Dennert, Gassman, Gillespie, Halverson, Nelson, Noem, and Sigdestad

1 FOR AN ACT ENTITLED, An Act to provide for regulatory oversight of oil pipelines and to
2 create a task force.

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

4 Section 1. Terms used in this Act mean:

- 5 (1) "Crude oil," any unrefined liquid petroleum;
6 (2) "Crude oil pipeline operator," any person that is transporting crude oil via a pipeline;
7 (3) "Department," the South Dakota Department of Environment and Natural Resources.

8 Section 2. Each crude oil pipeline operator which is issued a permit from the South Dakota
9 Public Utilities Commission under the Energy Conversion and Transmission Facilities Act shall
10 prepare an oil spill response plan. An oil spill response plan must plan for resources for
11 responding, to the maximum extent practicable, to a worst case discharge, and to a substantial
12 threat of such a discharge. Each response plan must include, but not be limited to:

- 13 (1) Immediate notification procedures;



- 1 (2) Spill detection and mitigation procedures;
- 2 (3) The name, address, and telephone number of the oil spill response organization, if
- 3 appropriate;
- 4 (4) Response activities and response resources;
- 5 (5) Names and telephone numbers of federal, state, and local agencies which the operator
- 6 expects to have pollution control responsibilities or support;
- 7 (6) Training procedures;
- 8 (7) Equipment testing;
- 9 (8) Drill types, schedules, and procedures; and
- 10 (9) Plan review and update procedures.

11 No oil spill response plan is effective until it is approved by the department.

12 Section 3. Each crude oil pipeline operator shall update its response plan to address new or

13 different operating conditions or information. Each operator shall review its response plan in

14 full at least every five years from the date of the last submission.

15 Section 4. Each crude oil pipeline operator shall consult the department during the

16 preparation of its oil spill response plan.

17 Section 5. Each crude oil pipeline operator shall submit its initial oil spill response plan to

18 the department prior to putting a pipeline in operation.

19 Section 6. Each crude oil pipeline operator shall review its oil spill response plan at least

20 every five years from the date of the last submission to the department.

21 Section 7. Each crude oil pipeline operator shall submit any modifications to its response

22 plan to the department within thirty days of making such a change.

23 Section 8. Each crude oil pipeline operator shall implement its oil response plan in the event

24 of an oil spill regardless of the cause of the spill or the party responsible for the spill.

1 Section 9. Each crude oil pipeline operator that experiences a spill shall file a written report
2 with the department, within thirty days of discovery of the spill, if the spill:

- 3 (1) Is of five gallons or more; or
- 4 (2) Causes an explosion or fire; or
- 5 (3) Causes the injury or death of any person.

6 Section 10. There is established the South Dakota Underground Pipeline Task Force. The
7 task force shall consist of seven members to be appointed by the Governor, not all of the same
8 political party. The members shall be knowledgeable of existing federal statutes and regulations
9 and state statutes and rules which govern underground pipeline facilities for the transmission
10 and distribution of water, natural gas, crude oil, ethanol, and refined petroleum products. The
11 task force shall review the status of existing and proposed pipelines in South Dakota and assess
12 the adequacy of state laws and regulations relating to pipelines in South Dakota. The task force
13 is attached to the Department of Environment and Natural Resources for administrative
14 purposes, and will report its findings to the Governor no later than December 1, 2008.

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

400P0701

HOUSE EDUCATION ENGROSSED NO. **SB 201** - 2/21/2008

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

1 FOR AN ACT ENTITLED, An Act to revise certain eligibility requirements for the South
2 Dakota opportunity scholarship.

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

4 Section 1. That § 13-55-31 be amended to read as follows:

5 13-55-31. In order to be eligible for a South Dakota opportunity scholarship award, a student
6 shall:

7 (1) Be a resident of South Dakota at the time of graduation from high school;

8 (2) Have a composite score of 24, or higher, on the test administered by the American
9 College Testing Program or a ~~verbal-mathematics score of 1070-1100~~, an equivalent
10 score as determined by the Board of Regents on the Scholastic Assessment Test, and
11 the ACT or SAT test shall be taken before the student graduates from high school;

12 (3) Meet the high school course requirements for graduation from the distinguished high
13 school program as provided in ~~Board of Regents Policy Number 2:3(2)(F)~~ section
14 24:43:11:05 of the Administrative Rules of South Dakota as in effect on January 1,
15 ~~2003~~ 2008;



- 1 (4) Attend a university, college, or technical school that is accredited by the North
2 Central Association of Colleges and Schools and that provides instruction from a
3 campus located in South Dakota; and
- 4 (5) Enter into the program within five years of graduation from high school or within one
5 year of the student's release from active duty with an active component of the armed
6 forces if the release is within five years of the student's graduation from high school.
7 If a student attends full-time a regionally accredited university, college, or technical
8 school located outside South Dakota and within two years following high school
9 graduation or within two years following release from active military service returns
10 to the state to attend full-time a regionally accredited university, college, or technical
11 school, the student is eligible to receive a partial award.

12 A student is eligible to participate in the South Dakota opportunity scholarship program for
13 the equivalent of four academic years (eight consecutive spring and fall terms) or until the
14 attainment of a baccalaureate ~~or technical~~ degree, whichever comes first. However, the
15 executive director of the Board of Regents may grant exceptions to the continuous enrollment
16 requirements for good cause shown.

17 A student who would have been eligible for the scholarship, but who applies after
18 completing one or more semesters of full-time work at an accredited institution, may be
19 admitted to the program only if the student has complied with the same grade point and credit
20 hour requirements that would apply to program participants. Admission granted under these
21 circumstances may not be retroactive, and eligibility for participation in the program shall be
22 reduced by one semester for each semester of work completed prior to admission to the
23 program.

24 Section 2. That § 13-55-34 be amended to read as follows:

1 13-55-34. In order to maintain eligibility, a student shall:

2 (1) Maintain a cumulative 3.0 grade point average on a 4.0 scale. Cumulative grade point
3 average shall be calculated after the second semester and every semester thereafter.
4 The student shall complete consecutive spring and fall terms in order to remain
5 eligible for continuation of the scholarship program from term to term. A student
6 whose cumulative grade point average falls below 3.0 on a 4.0 scale shall forfeit the
7 scholarship for the subsequent semester and for subsequent semesters until the
8 student has reestablished eligibility. To reestablish eligibility, the student shall
9 comply with all course load, enrollment, and proficiency examination requirements
10 for continued eligibility stated in §§ 13-55-30 to 13-55-35, inclusive, and the student
11 shall achieve a cumulative grade point average of 3.0, or greater, on a 4.0 scale. The
12 scholarship shall be reinstated beginning the semester following that in which the
13 student achieves a cumulative grade point average of 3.0, or greater, on a 4.0 scale.
14 Reinstatement of a scholarship does not extend the time allowed under the
15 scholarship program; any scholarship award forfeited cannot be reclaimed after a
16 student has regained eligibility. A student whose cumulative grade point average falls
17 below 3.0 on a 4.0 scale a second time forfeits the scholarship for all subsequent
18 semesters;

19 (2) Complete fifteen credit hours of instruction per semester. The student shall enroll in
20 and complete at least fifteen credit hours of instruction in each consecutive spring
21 and fall term. If the executive director of the Board of Regents determines that a
22 student's failure to enroll or to maintain continued enrollment occurred as a direct
23 result of legitimate factors outside the student's control, or has resulted from the
24 student's participation in an activity that in the executive director's judgment provides

1 knowledge or experience that will enhance the student's academic pursuits, the
2 executive director may extend the student's eligibility to participate in the program
3 for up to two additional years, if the student does not enroll in a noneligible
4 institution; and

5 (3) Sit for and pass all sections of a college proficiency exam as required by Board of
6 Regents Policy Number 2.28 as in effect on January 1, 2003, at the end of the
7 sophomore year. The Board of regents may review and adjust the proficiency
8 examinations administered in keeping with sound academic practice. If such changes
9 are made, the Board of Regents shall notify all eligible institutions of new testing
10 standards or requirements. If the student fails to pass the proficiency examinations
11 the first time, eligibility is forfeited for continuation in the scholarship program.

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

706P0438

SENATE ENGROSSED NO. **SJR 1** - 2/13/2008

Introduced by: Senators Napoli, Apa, and Katus and Representatives Haverly and Moore

1 A JOINT RESOLUTION, Proposing a constitutional amendment to eliminate term limits for
2 legislators.

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

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

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

11 § 6. The terms of office of the members of the Legislature shall be two years; they shall
12 receive for their services the salary fixed by law under the provisions of § 2 of article XXI of
13 this Constitution, and five cents for every mile of necessary travel in going to and returning from
14 the place of meeting of the Legislature on the most usual route.

15 ~~— No person may serve more than four consecutive terms or a total of eight consecutive years~~



1 ~~in the senate and more than four consecutive terms or a total of eight consecutive years in the~~
2 ~~house of representatives. However, this restriction does not apply to partial terms to which a~~
3 ~~legislator may be appointed or to legislative service before January 1, 1993.~~

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

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