



# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

400P0283

SENATE COMMERCE

ENGROSSED NO. **HB 1037** - 2/11/2008

Introduced by: The Committee on Commerce at the request of the Department of Labor

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding action on medical  
2 claims for workers' compensation and to establish an administrative fine for delays  
3 regarding these medical claims.

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

5 Section 1. That chapter 62-4 be amended by adding thereto a NEW SECTION to read as  
6 follows:

7 Within thirty days after receiving a properly submitted bill for medical payments, the  
8 employer shall:

- 9 (1) Pay the charge or any portion of the bill that is not denied;
- 10 (2) Deny all or a portion of the bill on the basis that the injury is not compensable, or the  
11 service or charge is excessive or not medically necessary; or
- 12 (3) Request additional information to determine whether the charge or service is  
13 excessive or not medically necessary or whether the injury is compensable.

14 Section 2. That chapter 62-4 be amended by adding thereto a NEW SECTION to read as  
15 follows:



1       An employer that fails, refuses, or neglects to comply with the provisions of section 1 of this  
2       Act is subject to a administrative fine of five hundred dollars payable to the Department of  
3       Labor for each act of noncompliance, unless the employer had good cause for noncompliance.  
4       The department may promulgate rules pursuant to chapter 1-26 to establish standards for  
5       medical bill submissions pursuant to section 1 of this Act.

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

400P0270

## HOUSE ENGROSSED NO. **HB 1058** - 1/29/2008

Introduced by: The Committee on Agriculture and Natural Resources at the request of the  
State Brand Board

1 FOR AN ACT ENTITLED, An Act to increase the maximum amount allowable for the  
2 livestock ownership inspection fee.

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

4 Section 1. That § 40-18-16 be amended to read as follows:

5 40-18-16. The board may promulgate rules pursuant to chapter 1-26 to:

- 6 (1) Describe prohibited brand symbols for various types of livestock and identify  
7 locations on animals where a brand is permitted;
- 8 (2) Provide for the registration, transfer, and renewal of livestock brands;
- 9 (3) Establish a brand registration fee not to exceed twenty-five dollars;
- 10 (4) Establish a brand renewal fee not to exceed ten dollars per year or a brand renewal  
11 fee not to exceed fifty dollars for each five-year ownership period and a brand  
12 transfer fee not to exceed twenty-five dollars;
- 13 (5) Establish an ownership inspection fee not to exceed ~~eighty cents~~ one dollar for each  
14 head of livestock;
- 15 (6) Establish recordable livestock brands;



- 1       (7)   Establish law enforcement, ownership inspection, and transportation requirements
- 2               within or without the ownership inspection area;
- 3       (8)   Establish a duplicate certificate fee not to exceed five dollars;
- 4       (9)   Establish a mileage fee for inspectors not to exceed the rate set by the State Board of
- 5               Finance.

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

284P0335

## SENATE APPROPRIATIONS ENGROSSED NO. **HB 1080** - 2/11/2008

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

1 FOR AN ACT ENTITLED, An Act to authorize the Board of Regents to construct a student  
2 athlete development center on the campus of South Dakota State University and to make an  
3 appropriation therefor.

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

5 Section 1. The Board of Regents may contract for the construction, completion, furnishing,  
6 equipping, and maintaining of, including heating, air conditioning, plumbing, water, sewer,  
7 electric facilities, architectural and engineering services, asbestos abatement, removal of existing  
8 roofing and structures, and such other services and improvements as may be required to erect,  
9 a student athlete development center on the campus of South Dakota State University in  
10 Brookings, in Brookings County, at an estimated cost of six million dollars.

11 Section 2. There is hereby appropriated the sum of six million dollars (\$6,000,000), or so  
12 much thereof as may be necessary, of other fund expenditure authority, payable from funds  
13 donated for the purposes of this Act, to the Board of Regents for the construction authorized by  
14 this Act.

15 Section 3. The design and construction of the facilities approved by this Act shall be under



1 the general supervision of the Bureau of Administration as provided in § 5-14-2. The  
2 commissioner of the Bureau of Administration and the executive director of the Board of  
3 Regents shall approve vouchers and the state auditor shall draw warrants to pay expenditures  
4 authorized by this Act.

5 Section 4. No general fund dollars may be used for the maintenance and repair of the  
6 facilities authorized by this Act.

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

400P0338

## HOUSE APPROPRIATIONS ENGROSSED NO. **HB** **1081** - 1/25/2008

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

1 FOR AN ACT ENTITLED, An Act to authorize the Board of Regents to replace storage  
2 facilities at the Cottonwood Agricultural Experiment Station and to make an appropriation  
3 therefor.

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

5 Section 1. The Board of Regents may contract for the construction, completion, furnishing,  
6 equipping, and maintaining of, including heating, air conditioning, plumbing, water, sewer,  
7 electric facilities, architectural and engineering services, asbestos abatement, and such other  
8 services as may be required to construct a new machine and equipment storage shed and hoop  
9 barn at the Cottonwood Agricultural Experiment Station, located near Cottonwood in Jackson  
10 County, in conjunction with the agricultural experiment station, at an estimated cost of two  
11 hundred thousand dollars.

12 Section 2. The Board of Regents shall provide for the removal or demolition of existing  
13 storage sheds pursuant to § 13-51-12.

14 Section 3. There is hereby appropriated from pesticide registration fees designated for the



1 agricultural experiment station in subdivision 38-20A-59(4) the sum of two hundred thousand  
2 dollars (\$200,000), or so much thereof as may be necessary, to the Board of Regents for the  
3 purpose of constructing the facility described in this Act.

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

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

400P0339

## HOUSE APPROPRIATIONS ENGROSSED NO. **HB** **1082** - 1/25/2008

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

1 FOR AN ACT ENTITLED, An Act to revise the appropriation for a new dairy manufacturing  
2 plant at South Dakota State University.

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

4 Section 1. That section 2 of chapter 93 of the 2006 Session Laws be amended to read as  
5 follows:

6 Section 2. There is hereby appropriated to the Board of Regents ~~four million dollars~~  
7 ~~(\$4,000,000)~~ five million eight hundred fifty-two thousand dollars (\$5,852,000), or so much  
8 thereof as may be necessary, from private donations and grants received by South Dakota State  
9 University to construct the facility described in section 1 of this Act.

10 Section 2. That section 3 of chapter 93 of the 2006 Session Laws be repealed.

11 ~~Section 3. The Board of Regents may accept, transfer, and expend any funds obtained for~~  
12 ~~these purposes from federal sources, gifts, contributions, or any other source, all of which shall~~  
13 ~~be deemed appropriated to the project authorized by this Act.~~



# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

400P0340

## SENATE APPROPRIATIONS ENGROSSED NO. **HB 1083** - 2/11/2008

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

1 FOR AN ACT ENTITLED, An Act to authorize the Board of Regents to construct a new public  
2 restroom facility at McCrory Gardens on the campus of South Dakota State University and  
3 to make an appropriation therefor.

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

5 Section 1. The Board of Regents may contract for the construction, completion, furnishing,  
6 equipping, and maintaining of, including heating, air conditioning, plumbing, water, sewer,  
7 electric facilities, architectural and engineering services, asbestos abatement, removal of existing  
8 roofing and structures, and such other services and improvements as may be required to erect,  
9 a new public restroom facility at McCrory Gardens on the campus of South Dakota State  
10 University in Brookings, in Brookings County, at an estimated cost of fifty thousand dollars.

11 Section 2. There is hereby appropriated the sum of fifty thousand dollars (\$50,000), or so  
12 much thereof as may be necessary, of other fund expenditure authority, payable from funds  
13 donated for the purposes of this Act, to the Board of Regents for the construction authorized by  
14 this Act.

15 Section 3. The design and construction of the facilities approved by this Act shall be under



1 the general supervision of the Bureau of Administration as provided in § 5-14-2. The  
2 commissioner of the Bureau of Administration and the executive director of the Board of  
3 Regents shall approve vouchers and the state auditor shall draw warrants to pay expenditures  
4 authorized by this Act.

5 Section 4. No general fund dollars may be used for the maintenance and repair of the  
6 facilities authorized by this Act.

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

970P0248

## HOUSE JUDICIARY ENGROSSED NO. **HB 1135** - 1/25/2008

Introduced by: The Committee on Judiciary at the request of the Chief Justice

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to filing petitions for  
2 protection and to declare an emergency.

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

4 Section 1. That § 22-19A-9 be amended to read as follows:

5 22-19A-9. A petition for relief under §§ 22-19A-8 to 22-19A-16, inclusive, may be filed in  
6 circuit court or in a magistrate court with a magistrate judge presiding. Venue lies where any  
7 party to the proceedings resides.

8 Section 2. Whereas, this Act is necessary for the immediate preservation of the public peace,  
9 health, or safety, an emergency is hereby declared to exist, and this Act shall be in full force and  
10 effect from and after its passage and approval.



# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

921P0548

## HOUSE ENGROSSED NO. **HB 1174** - 1/28/2008

Introduced by: Representatives Rausch, Gillespie, Heineman, Nelson, Olson (Russell), Pitts, and Street and Senators Hansen (Tom), Albers, Bartling, Gant, Katus, Nesselhuf, Smidt (Orville), and Turbak Berry

1 FOR AN ACT ENTITLED, An Act to revise certain provisions related to the composition of  
2 water development district boards of directors.

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

4 Section 1. That § 46A-3A-18 be repealed.

5 ~~46A-3A-18. Whenever the provisions of chapters 46A-3A to 46A-3E, inclusive, provide for~~  
6 ~~an election requiring an affirmative vote of at least sixty percent of the votes cast, the~~  
7 ~~requirement shall be construed to mean sixty percent of the combined rural director areas and~~  
8 ~~sixty percent of the combined urban director areas in the election.~~

9 Section 2. That § 46A-3B-2 be amended to read as follows:

10 46A-3B-2. The board of directors of a water development district shall consist of five,  
11 seven, or nine members. Those districts which have a population up to twenty-five thousand  
12 shall have five directors. Those districts which have a population of twenty-five thousand and  
13 one to seventy-five thousand shall have seven directors. Districts with a population greater than  
14 seventy-five thousand shall have nine directors. Each director shall be a resident and real



1 ~~property owner voter~~ in the director area ~~he represents~~ represented. The Board of Water and  
2 Natural Resources shall divide the ~~portion of the~~ water development district ~~lying outside the~~  
3 ~~boundaries of incorporated municipalities and outside the extraterritorial jurisdiction of~~  
4 ~~municipalities of the first class~~ into rural director areas. A rural director shall be elected from  
5 each rural director area. ~~Five-member boards shall have three rural directors; seven-member~~  
6 ~~boards shall have four rural directors; and nine-member boards shall have five rural directors.~~  
7 ~~The Board of Water and Natural Resources shall divide the portion of the water development~~  
8 ~~district lying within the boundaries of incorporated municipalities and within the extraterritorial~~  
9 ~~jurisdiction of municipalities of the first class into municipal director areas. A municipal~~  
10 ~~director shall be elected from each municipal director area. Five-member boards will have two~~  
11 ~~municipal directors; seven-member boards will have three municipal directors; and~~  
12 ~~nine-member boards will have four municipal directors.~~

13 Section 3. That chapter 46A-3B be amended by adding thereto a NEW SECTION to read  
14 as follows:

15 For any water development district having director areas that will be realigned as a result  
16 of the provisions of this Act, any director of the district who is in office on the effective date of  
17 this Act shall continue to serve as a director if the director remains a resident of the district. At  
18 the first general election after the effective date of this Act, for any such water development  
19 district, directors shall be elected for all director positions in the district, regardless of whether  
20 or not any director's term has expired. The directors elected for the district at the general election  
21 shall be elected to serve for staggered terms. Thereafter, directors shall be elected to four-year  
22 terms at each subsequent general election to succeed those directors whose terms expire at the  
23 end of the year in which the election is held.

24 Section 4. That § 46A-3B-3 be amended to read as follows:

1       46A-3B-3. As soon as possible following each decennial census of population or any  
2 adjustment to a water development district boundary, the Board of Water and Natural Resources  
3 shall ascertain whether the number of board members should be adjusted, adjust the same, and  
4 redistrict water development district director areas to reflect changes in the population of the  
5 water development district so as to assure equitable representation of all areas within the water  
6 development district. ~~Such adjusting and redistricting notwithstanding, the water development~~  
7 ~~district board shall consist of the appropriate ratio of rural and municipal directors.~~

8       Section 5. This Act is effective on January 1, 2009.

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

752P0590

## HOUSE ENGROSSED NO. **HB 1240** - 1/30/2008

Introduced by: Representatives Olson (Russell), Faehn, and Lucas and Senators Hauge, Abdallah, and Gant

1 FOR AN ACT ENTITLED, An Act to increase certain vehicle dealer license fees.

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

3 Section 1. That § 32-6B-13 be amended to read as follows:

4 32-6B-13. Upon making initial application for a dealer's license, the applicant shall pay a  
5 fee to the department. The initial fee required for each type of dealer's license is as follows:

6 (1) Vehicle dealer's license--~~\$250~~\$300;

7 (2) Used vehicle dealer's license--~~\$250~~\$300;

8 (3) Motorcycle dealer's license--~~\$200~~\$250;

9 (4) Trailer dealer's license--~~\$75~~\$125; or

10 (5) Emergency vehicle dealer's license--~~\$250~~\$300.

11 All money collected pursuant to this section shall be deposited in the state motor vehicle  
12 fund.

13 Section 2. That § 32-6B-15 be amended to read as follows:

14 32-6B-15. A renewal application shall be submitted to the department annually, prior to the  
15 expiration of the old license. The applicant shall pay a fee based on the following schedule to



1 the department:

- 2 (1) Vehicle dealer's license--~~\$100~~\$175;
- 3 (2) Used vehicle dealer's license--~~\$100~~\$175;
- 4 (3) Motorcycle dealer's license--~~\$75~~\$150;
- 5 (4) Trailer dealer's license--~~\$50~~\$100; or
- 6 (5) Emergency vehicle dealer's license--~~\$100~~\$175.

7 The renewal application shall contain the same information as required for the initial  
8 application in § 32-6B-6. Any application for renewal made after the expiration date shall be  
9 accompanied by a fee in the amount of the initial license fee as established in § 32-6B-13.

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

11 32-7A-7. The license fee for a dealer or manufacturer of mobile homes or manufactured  
12 homes is ~~two hundred fifty~~ three hundred dollars and the annual license renewal fee is  
13 ~~seventy-five~~ one hundred fifty dollars. An applicant shall pay the license fees to the county  
14 treasurer at the time an application for license is made. The license is for ~~the full calendar~~ a year,  
15 unless it is revoked for cause. ~~The license shall expire at the end of the calendar year.~~

16 Section 4. That § 32-7B-8 be amended to read as follows:

17 32-7B-8. Each license may be issued for a multiple year period. The application for license  
18 and all applicable fees are due prior to the issuance of the initial license. The initial fee for a  
19 license shall be two hundred fifty dollars , and a renewal license shall be one hundred seventy-  
20 five dollars. All licenses shall be reviewed annually by the department. The department shall  
21 mail to the licensee at the last known address a renewal notice. The department shall establish  
22 by rules promulgated pursuant to chapter 1-26 the review date, if other than October first to  
23 December thirty-first, inclusive. If the licensee fails to return the renewal notice or to pay the  
24 applicable fees, the department shall cancel and revoke the license pursuant to the provisions

1 of §§ 32-7B-16 and 32-7B-17.

2 Section 5. That § 32-6C-5 be amended to read as follows:

3 32-6C-5. Upon making initial application for a dealer's license, the applicant shall pay a fee  
4 of one hundred fifty dollars to the department. Each license shall be valid from July first through  
5 the following June thirtieth, unless suspended or revoked prior to the expiration date. A renewal  
6 application shall be submitted to the department annually, along with a renewal fee of ~~ffty~~ one  
7 hundred twenty-five dollars, prior to the expiration of the old license. ~~Any snowmobile dealer~~  
8 ~~that was licensed by the department during the period of July 1, 1985, through the following~~  
9 ~~June 30, 1986, shall be eligible to renew his license for a fee of fifty dollars during the period~~  
10 ~~of July 1, 1987, through June 30, 1988.~~ The renewal application shall contain the same  
11 information as is required in § 32-6C-3. Any application for renewal made after the expiration  
12 date shall be accompanied by ~~a one hundred dollars~~ an initial license fee. Any licensee who does  
13 not file his application and renewal fee with the department prior to the expiration date shall  
14 cease to engage in business as a dealer on the license expiration date. All money collected  
15 pursuant to this section shall be deposited in the state motor vehicle fund.

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

293P0689

## HOUSE ENGROSSED NO. **HB 1276** - 2/6/2008

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

1 FOR AN ACT ENTITLED, An Act to make an appropriation to fund tax refunds for elderly  
2 persons and persons with a disability of property tax and sales tax and to revise the income  
3 eligibility requirements for property tax and sales tax refunds.

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

5 Section 1. There is hereby appropriated from the general fund the sum of eight hundred  
6 thousand dollars (\$800,000), or so much thereof as may be necessary, to the Department of  
7 Revenue and Regulation to provide refunds for real property tax and sales tax to elderly persons  
8 and persons with a disability pursuant to chapters 10-18A and 10-45A. An amount not to exceed  
9 twenty thousand dollars in fiscal year 2009 may be used for the administrative costs of this Act.

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

12 Section 3. Any amounts appropriated in this Act not lawfully expended or obligated by June  
13 30, 2009, shall revert in accordance with the procedures prescribed in chapter 4-8.

14 Section 4. That § 10-18A-5 be amended to read as follows:

15 10-18A-5. The amount of refund of real property taxes due or paid for a single-member



1 household made pursuant to this chapter shall be according to the following schedule:

2			The refund of real
3	If household income is		property taxes due
4	more than:	but less than	or paid shall be
5	\$ 0	<del>\$3,750</del> <u>4,000</u>	35%
6	<del>3,751</del> <u>4,001</u>	<del>4,010</del> <u>4,260</u>	34%
7	<del>4,011</del> <u>4,261</u>	<del>4,270</del> <u>4,520</u>	33%
8	<del>4,271</del> <u>4,521</u>	<del>4,530</del> <u>4,780</u>	32%
9	<del>4,531</del> <u>4,781</u>	<del>4,790</del> <u>5,040</u>	31%
10	<del>4,791</del> <u>5,041</u>	<del>5,050</del> <u>5,300</u>	30%
11	<del>5,051</del> <u>5,301</u>	<del>5,310</del> <u>5,560</u>	29%
12	<del>5,311</del> <u>5,561</u>	<del>5,570</del> <u>5,820</u>	28%
13	<del>5,571</del> <u>5,821</u>	<del>5,830</del> <u>6,080</u>	27%
14	<del>5,831</del> <u>6,081</u>	<del>6,090</del> <u>6,340</u>	26%
15	<del>6,091</del> <u>6,341</u>	<del>6,350</del> <u>6,600</u>	25%
16	<del>6,351</del> <u>6,601</u>	<del>6,610</del> <u>6,860</u>	24%
17	<del>6,611</del> <u>6,861</u>	<del>6,870</del> <u>7,120</u>	23%
18	<del>6,871</del> <u>7,121</u>	<del>7,130</del> <u>7,380</u>	22%
19	<del>7,131</del> <u>7,381</u>	<del>7,390</del> <u>7,640</u>	21%
20	<del>7,391</del> <u>7,641</u>	<del>7,650</del> <u>7,900</u>	20%
21	<del>7,651</del> <u>7,901</u>	<del>7,910</del> <u>8,160</u>	19%
22	<del>7,911</del> <u>8,161</u>	<del>8,170</del> <u>8,420</u>	18%
23	<del>8,171</del> <u>8,421</u>	<del>8,430</del> <u>8,680</u>	17%
24	<del>8,431</del> <u>8,681</u>	<del>8,690</del> <u>8,940</u>	16%
25	<del>8,691</del> <u>8,941</u>	<del>8,950</del> <u>9,200</u>	15%
26	<del>8,951</del> <u>9,201</u>	<del>9,210</del> <u>9,460</u>	14%
27	<del>9,211</del> <u>9,461</u>	<del>9,470</del> <u>9,720</u>	13%
28	<del>9,471</del> <u>9,721</u>	<del>9,730</del> <u>9,980</u>	12%
29	<del>9,731</del> <u>9,981</u>	<del>10,000</del> <u>10,250</u>	11%

1 over ~~10,000~~ 10,250 No refund

2 Section 5. That § 10-18A-6 be amended to read as follows:

3 10-18A-6. The amount of refund of real property taxes due or paid for a multiple-member  
4 household made pursuant to this chapter shall be according to the following schedule:

5			The refund of real
6	If household income is		property taxes due
7	more than:	but not more than	or paid shall be
8	\$ 0	<del>6,500</del> <u>6,750</u>	55%
9	<del>6,501</del> <u>6,751</u>	<del>6,861</del> <u>7,111</u>	53%
10	<del>6,862</del> <u>7,112</u>	<del>7,222</del> <u>7,472</u>	51%
11	<del>7,223</del> <u>7,473</u>	<del>7,583</del> <u>7,833</u>	49%
12	<del>7,584</del> <u>7,834</u>	<del>7,944</del> <u>8,194</u>	47%
13	<del>7,945</del> <u>8,195</u>	<del>8,305</del> <u>8,555</u>	45%
14	<del>8,306</del> <u>8,556</u>	<del>8,666</del> <u>8,916</u>	43%
15	<del>8,667</del> <u>8,917</u>	<del>9,027</del> <u>9,277</u>	41%
16	<del>9,028</del> <u>9,278</u>	<del>9,388</del> <u>9,638</u>	39%
17	<del>9,389</del> <u>9,639</u>	<del>9,749</del> <u>9,999</u>	37%
18	<del>9,750</del> <u>10,000</u>	<del>10,110</del> <u>10,360</u>	35%
19	<del>10,111</del> <u>10,361</u>	<del>10,471</del> <u>10,721</u>	33%
20	<del>10,472</del> <u>10,722</u>	<del>10,832</del> <u>11,082</u>	31%
21	<del>10,833</del> <u>11,083</u>	<del>11,193</del> <u>11,443</u>	29%
22	<del>11,194</del> <u>11,444</u>	<del>11,554</del> <u>11,804</u>	27%
23	<del>11,555</del> <u>11,805</u>	<del>11,915</del> <u>12,165</u>	25%
24	<del>11,916</del> <u>12,166</u>	<del>12,276</del> <u>12,526</u>	23%
25	<del>12,277</del> <u>12,527</u>	<del>12,637</del> <u>12,887</u>	21%
26	<del>12,638</del> <u>12,888</u>	<del>13,000</del> <u>13,250</u>	19%
27	over <del>13,000</del> <u>13,250</u>		No refund

28 Section 6. That § 10-45A-5 be amended to read as follows:

1        10-45A-5. The amount of any claim made pursuant to this chapter by a claimant from a  
2 household consisting solely of one individual shall be determined as follows:

- 3        (1) If the claimant's income is ~~three thousand seven hundred fifty~~ four thousand dollars  
4 or less, a sum of two hundred fifty-eight dollars;
- 5        (2) If the claimant's income is ~~three thousand seven hundred fifty-one~~ four thousand one  
6 dollars and not more than ten thousand two hundred fifty dollars, a sum of forty-six  
7 dollars plus three and four-tenths percent of the difference between ten thousand two  
8 hundred fifty dollars and the income of the claimant;
- 9        (3) If the claimant's income is more than ten thousand two hundred fifty dollars, no  
10 refund.

11 Section 7. That § 10-45A-6 be amended to read as follows:

12        10-45A-6. The amount of any claim made pursuant to this chapter by a claimant from a  
13 household consisting of more than one individual shall be determined as follows:

- 14        (1) If household income is ~~six thousand five hundred~~ six thousand seven hundred fifty  
15 dollars or less, the sum of five hundred eighty-one dollars;
- 16        (2) If household income is ~~six thousand five hundred one~~ six thousand seven hundred  
17 fifty-one dollars and not more than thirteen thousand two hundred fifty dollars, a sum  
18 of seventy-four dollars plus seven and eight-tenths percent of the difference between  
19 thirteen thousand two hundred fifty dollars and total household income;
- 20        (3) If household income is more than thirteen thousand two hundred fifty dollars, no  
21 refund.

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

400P0077

## SENATE STATE AFFAIRS ENGROSSED NO. **SB 4-** 2/11/2008

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

1 FOR AN ACT ENTITLED, An Act to revise certain provisions concerning campaign finance  
2 reporting requirements and to establish certain penalties.

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

4 Section 1. That § 12-27-1 be amended to read as follows:

5 12-27-1. Terms used in this chapter mean:

6 (1) "Ballot question," any referendum, initiative, proposed constitutional amendment, or  
7 other measure submitted to voters at any election;

8 (2) "Ballot question committee," a person or organization that raises, collects, or  
9 disburses contributions ~~solicited~~ for the placement of a ballot question on the ballot  
10 or the adoption or defeat of any ballot question. A ballot question committee is not  
11 a person, political committee, or political party that makes a contribution to a ballot  
12 question committee. A ballot question committee is not an organization that makes  
13 a contribution to a ballot question committee from treasury funds;

14 (3) "Candidate campaign committee," any entity organized by a candidate to receive



1 contributions and make expenditures for the candidate. Only one candidate campaign  
2 committee may be organized for each candidate;

3 (4) "Candidate," any person who seeks nomination for or election to public office, and  
4 for the purpose of this chapter a person is deemed a candidate if the person raises,  
5 collects, or disburses contributions in excess of five hundred dollars; has authorized  
6 the solicitation of contributions or the making of expenditures; or has created a  
7 candidate campaign committee for the purpose of obtaining public office. The person  
8 is also deemed a candidate if the person has taken all actions required by state law  
9 to qualify for nomination for or election to public office;

10 (5) "Clearly identified," the appearance of the name, nickname, a photograph or a  
11 drawing of a candidate ~~or public office holder~~, or the unambiguous reference to the  
12 identity of a candidate ~~or public office holder~~;

13 (6) "Contribution," any gift, advance, distribution, deposit, or payment of money or any  
14 other valuable consideration, or any contract, promise or agreement to do so; any  
15 discount or rebate not available to the general public; any forgiveness of indebtedness  
16 or payment of indebtedness by another person; or the use of services or property  
17 without full payment made or provided by any person, political committee, or  
18 political party whose primary business is to provide such services or property for the  
19 purpose of influencing:

- 20 (a) The nomination, election, or re-election of any person to public office; or
- 21 (b) The placement of a ballot question on the ballot or the adoption or defeat of  
22 any ballot question submitted.

23 The term does not include services provided by a person as a volunteer for or on  
24 behalf of any candidate, political committee, or political party, including the free or

1 discounted use of a person's residence. Nor does the term include the purchase of any  
2 item of value or service from any political committee or political party. The purchase  
3 price of the item may not exceed the fair market value and may not include an intent  
4 to contribute beyond the item's value. A contribution does not include administration  
5 and solicitation of a contribution for a political action committee established by an  
6 organization and associated expenses, nor the use of an organization's real or  
7 personal property located on its business premises for such purposes. A contribution  
8 does not include nominal use of a candidate's real or personal property or nominal  
9 use of resources available at a candidate's primary place of business;

10 (7) "County office," any elected office at a county in this state;

11 (8) "Election," any election for public office; any general, special, primary, or runoff  
12 election; and any election on a ballot question;

13 (9) "Expressly advocate," any communication which:

14 (a) In context has no other reasonable meaning than to urge the election or defeat  
15 of one or more clearly identified candidates, ~~public office holders~~, or the  
16 placement of a ballot question on the ballot or the adoption or defeat of any  
17 ballot question by use of explicit words of advocacy of election or defeat. The  
18 following words convey a message of express advocacy: vote, re-elect,  
19 support, cast your ballot for, reject, and defeat; or

20 (b) ~~When~~ If taken as a whole and with limited reference to external events, such  
21 as the proximity to the election, may only be interpreted by a reasonable  
22 person as containing advocacy of the election or defeat of one or more clearly  
23 identified candidates, ~~public office holders~~, or the placement of a ballot  
24 question on the ballot or the adoption or defeat of any ballot question because:

1 (I) The electoral portion of the communication is unmistakable,  
2 unambiguous, and suggestive of only one meaning; and

3 (ii) Reasonable minds could not differ as to whether it encourages actions  
4 to elect or defeat one or more clearly identified candidates, ~~public office~~  
5 ~~holders~~, or the placement of a ballot question on the ballot or the  
6 adoption or defeat of any ballot question or encourages some other kind  
7 of action;

8 (10) "Immediate family," a spouse of a candidate ~~or public office holder~~, or a person under  
9 the age of eighteen years who is claimed by that candidate ~~or public office holder~~ or  
10 that candidate's ~~or public office holder's~~ spouse as a dependent for federal income tax  
11 purposes or any relative within the third degree of kinship of the candidate or the  
12 candidate's spouse, and the spouses of such relatives;

13 (11) "Independent expenditure," an expenditure made by a person, organization, political  
14 committee, or political party to expressly advocate the election or defeat of a clearly  
15 identified candidate or the placement of a ballot question on the ballot or the  
16 adoption or defeat of any ballot question, but which is not made to, controlled by,  
17 coordinated with, requested by, or made upon consultation with a candidate, political  
18 committee, or agent of a candidate or political committee. The term does not include  
19 administration and solicitation of any contribution for a political action committee  
20 established by an organization and associated expenses, nor the use of an  
21 organization's real or personal property located on its business premises for such  
22 purposes. The term does not include any communication by a person made in the  
23 regular course and scope of the person's business or ministry or any communication  
24 made by a membership organization solely to any member of the organization and

- 1 the member's family;
- 2 (12) "In-kind," a good or service provided at no charge or for less than its fair market  
3 value. The term does not include the value of services provided by a person as a  
4 volunteer for or on behalf of any candidate, political committee, or political party,  
5 including the free or discounted use of any person's residence or office;
- 6 (13) "Legislative office," the Senate and the House of Representatives of the South  
7 Dakota Legislature;
- 8 (14) "Loan," a transfer of money, property, guarantee, or anything of value in exchange  
9 for an obligation, conditional or not, to repay in whole or part;
- 10 (15) "National political party," the organization which is responsible for the day-to-day  
11 operation of a political party at the national level, as determined by the Federal  
12 Election Commission;
- 13 (16) "Organization," any business corporation, limited liability company, nonprofit  
14 corporation, limited liability partnership, limited partnership, partnership,  
15 cooperative, trust, business trust, association, club, labor union, collective bargaining  
16 organization, local, state, or national organization to which a labor organization pays  
17 membership or per capita fees, based upon its affiliation and membership, trade or  
18 professional association that receives its funds from membership dues or service fees,  
19 whether organized inside or outside the state, any entity organized in a corporate  
20 form under federal law or the laws of this state, or any group of persons acting in  
21 concert which is not defined as a political committee or political party in this chapter;
- 22 (17) "Person," a natural person;
- 23 (18) "Political action committee," a person or organization that raises, collects or  
24 disburses contributions to influence the outcome of an election and who is not a

1 candidate, candidate campaign committee, ballot question committee, or a political  
2 party. A political action committee is not any:

3 (a) Person that makes a contribution to a political committee or political party; or

4 (b) Organization that makes a contribution to a ballot question committee from  
5 treasury funds;

6 (19) "Political committee," any candidate campaign committee, political action  
7 committee, or ballot question committee;

8 (20) "Political party," any state or county political party qualified to participate in a  
9 primary or general election, including any auxiliary organization of such political  
10 party. An auxiliary organization is any organization designated as an auxiliary  
11 organization in the political party's bylaws or constitution except any ~~secondary or~~  
12 ~~post-secondary student~~ auxiliary organization that only accepts contributions to  
13 support volunteer ~~student~~ activities of the organization and does not make monetary  
14 or in-kind contributions or any independent expenditures to any political committee;

15 (21) "Public office," any statewide office, legislative office, or county office;

16 (22) "Qualified nonprofit corporation," any nonprofit corporation, subject to the  
17 provisions of chapters 47-22 to 47-28, inclusive, that was organized for the purpose  
18 of promoting political ideas and cannot engage in business activities, has no  
19 shareholders or other persons affiliated so as to have a claim on the assets or  
20 earnings, was not established by a corporation, and has not accepted more than de  
21 minimus amount of funds from any corporation;

22 (23) "Statewide office," the offices of Governor, lieutenant governor, secretary of state,  
23 attorney general, state auditor, state treasurer, commissioner of school and public  
24 lands, and public utilities commissioner;

1 (24) "Volunteer," a person who provides services free of charge.

2 Section 2. That § 12-27-2 be amended to read as follows:

3 12-27-2. A political committee shall have and continually maintain a chair and a treasurer,  
4 which may be the same person. The chair and treasurer for a candidate campaign committee  
5 shall be appointed by the candidate, and the candidate may serve as either, or both, such officers.  
6 No political committee may receive or make contributions or pay expenses while the office of  
7 treasurer is vacant. A violation of this section is a Class 2 misdemeanor.

8 Section 3. That § 12-27-3 be amended to read as follows:

9 12-27-3. ~~A~~ The treasurer for a political action committee or ballot question committee shall  
10 file a statement of organization with the secretary of state not later than fifteen days after the  
11 date upon which the committee made contributions, received contributions, or paid expenses  
12 in excess of five hundred dollars unless such activity falls within thirty days of any statewide  
13 election in which case the statement of organization shall be filed within forty-eight hours. Any  
14 candidate for public office shall organize a candidate campaign committee not later than fifteen  
15 days after becoming a candidate and shall file a statement of organization with the secretary of  
16 state ~~A candidate shall file a statement of organization for a candidate campaign committee with~~  
17 ~~the secretary of state not later than fifteen days after becoming a candidate pursuant to this~~  
18 ~~chapter. Notwithstanding the provisions of § 12-27-41, the statement of organization shall~~  
19 ~~include the original signature of each person filing the statement.~~ A political committee that  
20 regularly files a campaign finance disclosure statement with the Federal Election Commission  
21 is not required to file a statement of organization. A violation of this section is a Class 2  
22 misdemeanor.

23 Section 4. That § 12-27-6 be amended to read as follows:

24 12-27-6. The statement of organization shall include:

- 1 (1) The name, street address, postal address, and daytime telephone number of the  
2 committee;
- 3 (2) The name, street address, postal address, and daytime telephone number of the chair  
4 and the treasurer of the committee;
- 5 (3) A statement of the type of political committee that has been or is being organized;
- 6 (4) In the case of a candidate campaign committee, the name, street address, and postal  
7 address of the candidate;
- 8 (5) In the case of a political action committee or ballot question committee, a concise  
9 statement of its purpose and goals, and the full name, street address, and postal  
10 address of the organization with which the committee is connected or affiliated, or  
11 if the committee is not connected or affiliated with any one organization, the trade,  
12 profession, or primary interest of the committee;
- 13 (6) If the committee is organized as a corporation under federal or state laws for liability  
14 purposes only as authorized by § 12-27-4, a statement affirming such organization;  
15 and
- 16 (7) The name, street address, postal address, and telephone number of each financial  
17 institution where an account or depository is maintained.

18 The statement shall be signed by the candidate and treasurer for a candidate campaign  
19 committee and by the chair and treasurer for other political committees. A political committee  
20 continues to exist until a termination statement is filed pursuant to §§ 12-27-25 and 12-27-26.

21 The ~~candidate~~ or treasurer of a political committee shall file an updated statement of  
22 organization not later than fifteen days after any change in the information contained on the  
23 most recently filed statement of organization.

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

1 12-27-12. No person or organization may make a contribution in the name of another person  
2 or organization, make a contribution disguised as a gift, make a contribution in a fictitious  
3 name, make a contribution on behalf of another person or organization, or knowingly permit  
4 another to use ~~his or her~~ that person's or organization's name to make a contribution. No  
5 candidate may accept a contribution disguised as a gift. A violation of this section is a Class 1  
6 misdemeanor.

7 Section 6. That § 12-27-16 be amended to read as follows:

8 12-27-16. Any person or qualified nonprofit corporation that makes an independent  
9 expenditure for a communication which expressly advocates for or against a candidate, ~~public~~  
10 ~~office holder~~, ballot question, or political party totaling one thousand dollars or more shall file  
11 a statement with the secretary of state that is received within forty-eight hours of the time that  
12 the communication is disseminated, broadcast, or otherwise published.

13 Any organization that makes an independent expenditure for a communication which  
14 expressly advocates for or against a ~~public office holder~~, ballot question; or political party  
15 totaling one thousand dollars or more shall file a statement with the secretary of state that is  
16 received within forty-eight hours of the time that the communication is disseminated, broadcast,  
17 or otherwise published.

18 The statement shall include the name of the person, qualified nonprofit corporation, or  
19 organization and its street address, city, and state, the name of each candidate, ~~public office~~  
20 ~~holder~~, ballot question, or political party mentioned in the communication, the amount spent on  
21 the communication, and a description of the content of the communication.

22 Further, if the independent expenditure is made by an organization comprised of twenty or  
23 fewer members or shareholders, the statement shall include the name and address of each  
24 shareholder or member who owns ten percent or more of the organization.

1 For the purposes of this section, the term, communication, does not include:

- 2 (1) Any news articles, editorial endorsements, opinion, or commentary writings, or letter  
3 to the editor printed in a newspaper, magazine, flyer, pamphlet, or other periodical  
4 not owned or controlled by a candidate, political committee, or political party;
- 5 (2) Any editorial endorsements or opinions aired by a broadcast facility not owned or  
6 controlled by a candidate, political committee, or political party;
- 7 (3) Any communication by a person made in the regular course and scope of the person's  
8 business or ministry or any communication made by a membership organization  
9 solely to members of the organization and the members' families; and
- 10 (4) Any communication that refers to any candidate only as part of the popular name of  
11 a bill or statute.

12 Section 7. That § 12-27-17 be amended to read as follows:

13 12-27-17. Any person, political committee, political party, or organization that makes a  
14 payment or promise of payment totaling one thousand dollars or more for a communication that  
15 clearly identifies a candidate ~~or public office holder~~, but does not expressly advocate the  
16 election or defeat of the candidate ~~or public office holder~~, and that is disseminated, broadcast,  
17 or otherwise published within sixty days of an election, shall file a statement with the secretary  
18 of state disclosing the name, street address, city, and state of such person, political committee,  
19 political party, or organization. The statement shall also include the name of the candidate ~~or~~  
20 ~~public office holder~~ mentioned in the communication, the amount spent on the communication,  
21 and a description of the content of the communication. The statement shall be received and filed  
22 within forty-eight hours of the time that the communication is disseminated, broadcast, or  
23 otherwise published.

24 For the purposes of this section, the term, communication, does not include:

- 1 (1) Any news articles, editorial endorsements, opinion or commentary writings, or letter  
2 to the editor printed in a newspaper, magazine, flyer, pamphlet, or other periodical  
3 not owned or controlled by a candidate, political committee, or political party;
- 4 (2) Any editorial endorsements or opinions aired by a broadcast facility not owned or  
5 controlled by a candidate, political committee, or political party;
- 6 (3) Any communication by a person made in the regular course and scope of the person's  
7 business or ministry or any communication made by a membership organization  
8 solely to members of the organization and the members' families; and
- 9 (4) Any communication that refers to any candidate only as part of the popular name of  
10 a bill or statute.

11 Section 8. That § 12-27-22 be amended to read as follows:

12 12-27-22. A campaign ~~financial~~ finance disclosure statement shall be filed with the secretary  
13 of state by the treasurer of every:

- 14 (1) Candidate or candidate campaign committee for any statewide or legislative office;
- 15 (2) Political action committee;
- 16 (3) Political party; and
- 17 (4) Ballot question committee.

18 The statement shall be signed and filed by the treasurer of the political committee or  
19 political party. The statement shall be received by the secretary of state and filed by 5:00 p.m.  
20 each February first and shall cover the contributions and expenditures for the preceding calendar  
21 year. However, no statement is required to be filed by a candidate campaign committee for  
22 legislative or county office on February first following a year in which there is not an election.  
23 A statement shall also be received by the secretary of state and filed by 5:00 p.m. on the second  
24 Friday prior to each primary and general election complete through the fifteenth day prior to that

1 election. No county, local, or auxiliary committee of any political party qualified to participate  
2 in a primary or general election is required to file a campaign ~~financial~~ finance disclosure  
3 statement prior to a statewide primary election. No candidate without opposition in a primary  
4 election is required to file a campaign ~~financial~~ finance disclosure statement prior to a primary  
5 election. Any statement filed pursuant to this section shall be consecutive and shall cover  
6 contributions and expenditures since the last statement filed. A political committee that  
7 regularly files a campaign finance disclosure statement with the Federal Election Commission  
8 or a report of contributions and expenditures with the Internal Revenue Service is not required  
9 to file a campaign finance disclosure statement. A violation of this section is a Class 1  
10 misdemeanor.

11 Section 9. That § 12-27-23 be amended to read as follows:

12 12-27-23. A campaign finance disclosure statement shall be received by the secretary of  
13 state and filed by the treasurer of any statewide ballot question committee by 5:00 p.m. on the  
14 fifth day of July during the year in which the ballot question is to be voted on complete through  
15 the month of June. A violation of this section is a Class 1 misdemeanor.

16 Section 10. That § 12-27-24 be amended to read as follows:

17 12-27-24. A campaign finance disclosure statement shall include the following information:

- 18 (1) Political committee or political party name, street address, postal address, city, state,  
19 zip code, daytime and evening telephone number, and e-mail address;
- 20 (2) Type of campaign statement (pre-primary, pre-general, mid-year, year-end,  
21 amendment, supplement, or termination);
- 22 (3) If a ballot question committee, the ballot question number and whether the committee  
23 is for or against the measure;
- 24 (4) The balance of cash and cash equivalents on hand at the beginning of the reporting

- 1 period;
- 2 (5) The total amount of all contributions received during the reporting period;
- 3 (6) The total amount of all in-kind contributions received during the reporting period;
- 4 (7) The total of refunds, rebates, interest, or other income not previously identified  
5 during the reporting period;
- 6 (8) The total of contributions, loans, and other receipts during the reporting period;
- 7 (9) The total value of loans made to any person, political committee, or political party  
8 during the reporting period;
- 9 (10) The total of expenditures made during the reporting period;
- 10 (11) The total amount of all expenditures incurred but not yet paid. An expenditure  
11 incurred but not yet paid shall be reported on each report filed after the date of receipt  
12 of goods or services until payment is made to the vendor. A payment shall be listed  
13 as an expenditure when the payment is made;
- 14 (12) The statement shall state the cash balance on hand as of the close of the reporting  
15 period;
- 16 (13) The total amount of contributions of one hundred dollars or less in the aggregate  
17 from one source received during the reporting period;
- 18 (14) The name, residence address, city, and state of each person contributing a  
19 contribution of more than one hundred dollars in the aggregate during the reporting  
20 period and the amount of the contribution. Any contribution from any political  
21 committee or political party shall be itemized. Any contribution from a federal  
22 political committee or political committee organized outside this state shall also  
23 include the name and internet website address of the filing office where campaign  
24 finance disclosure statements are regularly filed for the committee. If all of the

1 information required is not on file, the political committee or political party may not  
2 deposit the contribution;

3 (15) The statement shall contain the same information for in-kind contributions as for  
4 monetary contributions, and shall also include a description of the in-kind  
5 contribution;

6 (16) Upon the request of the treasurer, a person making an in-kind contribution shall  
7 provide all necessary information to the treasurer, including the value of the  
8 contribution;

9 (17) Any monetary or in-kind contribution made by the reporting political committee or  
10 political party to any political committee, political party, or nonprofit charitable  
11 organization shall be itemized;

12 (18) A categorical description and the amount of the refunds, rebates, interest, sale of  
13 property, or other receipts not previously identified during the reporting period;

14 (19) A categorical description and the amount of funds or donations by any organization  
15 to its political committee for establishing and administering the political committee  
16 and for any solicitation costs of the political committee;

17 (20) The total balance of loans owed by the political committee or political party;

18 (21) The balance of loans owed by the political committee or political party, itemized by  
19 lender's name, street address, city, and state, including the terms, interest rate, and  
20 repayment schedule of each loan;

21 (22) The total balance of loans owed to the political committee or political party;

22 (23) The amount of each loan made during the reporting period. The name, street address,  
23 city, and state of the recipient of the loan;

24 (24) The balance of each loan owed to the political committee or political party, itemized

1 by name, street address, city, and state;

2 (25) The expenditures made during the reporting period shall be categorized.  
3 Disbursements to consultants, advertising agencies, credit card companies, and  
4 similar firms shall be itemized into expense categories. Any contribution made by the  
5 reporting political committee or political party that is not in exchange for any item  
6 of value or service shall be itemized;

7 (26) The expenditures incurred but not yet paid during the reporting period and to whom  
8 the expenditure is owed;

9 (27) The amount of each independent expenditure, as defined in this chapter, made during  
10 the reporting period, the name of the candidate, ~~public office holder~~, or ballot  
11 question related to the expenditure and a description of the expenditure;

12 (28) The information contained in any statement provided under § 12-27-19; and

13 (29) The statement shall include a certification that the contents of the statement is true  
14 and correct signed by the treasurer of the political committee or political party.

15 Section 11. That § 12-27-25 be amended to read as follows:

16 12-27-25. The last campaign finance statement filed shall be a termination statement. The  
17 termination statement shall be filed by the treasurer within thirty days following disposition of  
18 all funds and property and the payment of all obligations.

19 Section 12. That § 12-27-27 be amended to read as follows:

20 12-27-27. Any ~~candidate~~, treasurer, or other person filing a statement pursuant to this  
21 chapter, shall file an amended statement within three days of discovering any omission,  
22 inaccuracy, or other change necessary to make the statement accurate. A person responsible for  
23 filing a statement pursuant to this chapter, who willfully fails to report a material change or  
24 correction, is guilty of a Class 1 misdemeanor. A person responsible for filing a statement

1 pursuant to this chapter, who willfully fails to file an amendment pursuant to this section is  
2 subject to the ~~civil~~ administrative penalty in ~~§ 12-27-30~~ section 13 of this Act beginning on the  
3 first day following the third day after the candidate, treasurer, or other person is notified of the  
4 omission, inaccuracy, or other change necessary to make the statement accurate.

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

7 In addition to any other penalty or relief provided under this chapter, the secretary of state,  
8 after notice and opportunity for hearing pursuant to chapter 1-26, may impose an administrative  
9 penalty for the failure to timely file any statement, amendment, or correction required to be filed  
10 by this chapter. The administrative penalty is fifty dollars per day for each violation not to  
11 exceed three thousand dollars. Any administrative penalty collected pursuant to this section shall  
12 be deposited in the state general fund.

13 Section 14. That chapter 12-27 be amended by adding thereto a NEW SECTION to read as  
14 follows:

15 Any administrative penalty imposed pursuant to section 13 of this Act shall be assessed  
16 against the violator by an administrative order of the secretary of state. The order shall state the  
17 date and facts of each violation addressed under the penalty assessed and the citations to the  
18 provisions of each law alleged to be violated. The order shall contain a statement that the  
19 violator may request a contested case hearing on the violation and penalty pursuant to chapter  
20 1-26, by filing a written request with the secretary of state no later than twenty days after the  
21 receipt of the order. The secretary of state shall serve the order and assessment by certified mail.  
22 If not contested within twenty days of receipt of the order, an administrative order assessing an  
23 administrative penalty constitutes a judgment and may be executed by delivery of a true and  
24 correct copy certified by the secretary of state in the manner provided for the execution of

1 money judgments provided in chapter 15-18.

2 If a hearing is requested, the matter shall be scheduled for a hearing before the secretary of  
3 state within thirty days from the receipt of the request. The secretary of state shall provide notice  
4 of the hearing consistent with the provisions of § 1-26-17. A final determination by the secretary  
5 of state may be appealed to the circuit court or Supreme Court as provided in chapter 1-26.

6 If the time to take an appeal has lapsed after the final determination by the secretary of state,  
7 the administrative order assessing an administrative penalty constitutes a judgment and may be  
8 executed by delivery of a true and correct copy certified by the secretary of state in the manner  
9 provided for the execution of judgments in chapter 15-18.

10 Section 15. That § 12-27-28 be amended to read as follows:

11 12-27-28. If any candidate campaign committee for statewide office, political action  
12 committee, ballot question committee, or political party required to file a campaign finance  
13 disclosure statement pursuant to this chapter receives a contribution of five hundred dollars or  
14 more within the fourteen days immediately prior to an election for which a campaign finance  
15 disclosure statement may be filed, a supplemental statement shall be filed. The statement shall  
16 state the name, street address, city, and state of the contributor and the amount and date of the  
17 contribution, and information contained in any statement provided under § 12-27-19, if  
18 applicable. The statement shall be filed by the treasurer within forty-eight hours of the receipt  
19 of the contribution. A violation of this section is a Class 1 misdemeanor.

20 Section 16. That § 12-27-30 be amended to read as follows:

21 12-27-30. Notwithstanding the provisions of § 12-25-33, the failure to timely file any  
22 statement, amendment, or correction ~~required by this chapter~~ with any county, township,  
23 municipality, school district, or special purpose district covered by this chapter pursuant to § 12-  
24 27-39 or covered by local ordinance or resolution subjects the treasurer responsible for filing

1 to a civil penalty of fifty dollars per day for each day that the statement remains delinquent. The  
2 civil penalty shall be in addition to any criminal sanctions and shall be paid to the ~~secretary of~~  
3 ~~state~~ county, township, municipality, school district, or special purpose district and deposited  
4 in ~~the state~~ its general fund.

5 Section 17. That § 12-27-35 be amended to read as follows:

6 12-27-35. The attorney general shall investigate violations of the provisions of this chapter  
7 relating to a legislative office, statewide office, or statewide ballot question and prosecute any  
8 violation thereof. In lieu of bringing a criminal action, the attorney general may elect to file a  
9 civil action. In a civil action, in addition to other relief, the court may impose a civil penalty ~~in~~  
10 ~~the amount provided by statute, or if not provided,~~ in an amount not to exceed ten thousand  
11 dollars for each violation. Any civil penalty recovered shall be paid to the state general fund. A  
12 civil action brought by the attorney general shall be commenced in Hughes County, in the  
13 county where the person resides, or in the county where the organization, political party, or  
14 political committee has its principal office.

15 Section 18. That § 12-27-40 be amended to read as follows:

16 12-27-40. The state's attorney shall investigate any violation of the provisions of this chapter  
17 relating to elections for county and school district office or ballot questions, and prosecute any  
18 violation thereof. In lieu of bringing a criminal action, the state's attorney may elect to file a civil  
19 action for any violation of this chapter. In a civil action, in addition to other relief, the court may  
20 impose a civil penalty ~~in the amount provided by statute, or if not provided,~~ in an amount not  
21 to exceed one thousand ~~dollar~~ dollars for each violation. Any civil penalty recovered shall be  
22 paid to the county general fund if the violation arose out of a county office or ballot question  
23 or the school district general fund if the violation arose out of a school district office or ballot  
24 question. A civil enforcement action for a violation of the chapter concerning a school district

1 office or ballot question may, with the consent of the state's attorney, be brought by the school  
2 district's attorney. A civil action brought under this section shall be commenced in the county  
3 where filings under the chapter are required, in the county where the person resides, or in the  
4 county where the organization, political party, or political committee has its principal office.

5 Section 19. That § 12-27-43 be amended to read as follows:

6 12-27-43. The attorney general may bring an action for a civil penalty against any person,  
7 political committee, political party, or organization that violates § 12-27-16 ~~or 12-27-17~~, in  
8 addition to any other penalties provided by law. The civil penalty may not exceed two thousand  
9 dollars for each violation.

10 Section 20. That chapter 12-27 be amended by adding thereto a NEW SECTION to read as  
11 follows:

12 A ballot question committee may only accept contributions from a person, organization,  
13 political committee, or political party. A violation of this section is a Class 1 misdemeanor.

14 Section 21. That § 12-5-14 be amended to read as follows:

15 12-5-14. The precinct committeemen and the precinct committeewomen of each political  
16 party; the state committeemen and committeewomen; the county chairperson, vice-chairperson,  
17 and secretary-treasurer or secretary and treasurer; and the elected public officers who reside in  
18 the county and other officers as designated by the party's constitution or bylaws, ~~shall~~ constitute  
19 the county central committee of their respective parties. They shall form their party organization  
20 by electing a county chairperson and other officers as determined by the party's constitution or  
21 bylaws. The name and mailing address of the county chairperson shall be certified to the county  
22 auditor immediately following the election of the county chairperson or change of the county  
23 chairperson. The name and mailing address of the county officer responsible for the records and  
24 reports required pursuant to chapter 12-27 shall be certified to the secretary of state immediately

1 following the election. The name and mailing address of the state party chairperson shall be  
2 certified to the secretary of state immediately following the election or appointment of the state  
3 party chairperson.

4 Section 22. That § 49-38-6 be repealed.

5 ~~—49-38-6. Every consumers power district shall make a statement in writing, verified under  
6 oath by an officer of the district, and file it with the secretary of state on January first of each  
7 year, and on the first day of each three months thereafter. The statement shall set forth in detail  
8 all sums of money and other things of value contributed, disbursed, expended or promised by  
9 such district, since the date of the last report, in connection with any and all elections concerning  
10 its properties or in advertising or publicity campaigns designed to affect legislation. A violation  
11 of this section is a petty offense.~~

12 Section 23. That § 8-3-21 be amended to read as follows:

13 8-3-21. The township governing body may, by ordinance or resolution, adopt the provisions  
14 of chapter ~~12-25~~ 12-27.

15 Section 24. That § 12-1-2.1 be amended to read as follows:

16 12-1-2.1. The governing body of any political subdivision may, by ordinance or resolution,  
17 adopt the provisions of chapter ~~12-25~~ 12-27.

18 Section 25. That § 9-12-16 be amended to read as follows:

19 9-12-16. The municipal governing body may adopt an ordinance to make the provisions of  
20 chapter ~~12-25~~ 12-27 applicable to municipal elections.

21 Section 26. That § 13-7-6.1 be amended to read as follows:

22 13-7-6.1. The school district governing body may, by ordinance or resolution, adopt the  
23 provisions of chapter ~~12-25~~ 12-27.

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

941P0659

SENATE TRANSPORTATION

ENGROSSED NO. **SB 167** - 2/12/2008

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

Introduced by: Senators Lintz, Duenwald, Garnos, Hanson (Gary), and McNenny and Representatives Howie, Deadrick, Juhnke, Kirkeby, and Olson (Betty)

1 FOR AN ACT ENTITLED, An Act to make an appropriation to the railroad trust fund to  
2 enhance certain railroad facilities.

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 railroad trust fund to be used pursuant to § 49-  
6 16C-1 to enhance certain railroad facilities along a rail line located near Napa Junction in  
7 Yankton County.

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

10 Section 3. Any amounts appropriated in this Act not lawfully expended or obligated by June  
11 30, 2009, shall revert in accordance with the procedures prescribed in chapter 4-8.



# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

427P0565

## SENATE EDUCATION ENGROSSED NO. **SB 187** - 2/12/2008

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 revise the general education state aid formula for  
2 purposes of increasing teachers' salaries.

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

4 Section 1. That subdivision (4) of § 13-13-10.1 be amended to read as follows:

5 (4) "Per student allocation," for school fiscal year ~~2008~~ 2009 is ~~\$4,528.80~~ \$4,700.89.

6 Each school fiscal year thereafter, the per student allocation is the previous fiscal  
7 year's per student allocation increased by the index factor;

8 Section 2. For school fiscal year 2009, for any school district that does not certify to the  
9 secretary of education that its average teacher salary and benefits will increase by at least 3.8  
10 percent, and that it will spend at least \$58.87 per fall enrollment as defined in subdivision 13-  
11 13-10.1(2A) on teacher salaries and benefits in excess of the school district's FY 2008  
12 expenditures on teacher salaries and benefits, increased by the index factor as defined in  
13 subdivision 13-13-10.1(3), the per student allocation pursuant to subdivision 13-13-10.1(4) is



1 \$4,642.02.

2 Section 3. The secretary of education may promulgate rules pursuant to chapter 1-26 to

3 provide for the certifications required in section 2 of this Act.

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

455P0728

SENATE STATE AFFAIRS

ENGROSSED NO. **SB 196** - 2/12/2008

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

Introduced by: Senators Nesselhuf and Greenfield and Representatives Boomgarden, Brunner, Nygaard, and Peters

1 FOR AN ACT ENTITLED, An Act to provide for environmental protection standards for  
2 petroleum refinery facilities.

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

4 Section 1. Terms used in sections 2 to 14, inclusive, of this Act mean:

5 (1) "Department," the Department of Environment and Natural Resources;

6 (2) "Emergency," a condition at a petroleum refinery beyond the reasonable control of  
7 the owner or operator requiring immediate corrective action to restore normal and  
8 safe operation that is caused by a sudden, infrequent and not reasonably preventable  
9 equipment failure, natural disaster, act of war or terrorism or external power  
10 curtailment, excluding power curtailment due to an interruptible power service  
11 agreement from a utility;

12 (3) "Feasible," capable of being accomplished in a successful manner within a reasonable  
13 period of time, taking into account economic, environmental, legal, social and  
14 technological factors;



- 1 (4) "Flare," a combustion device that uses an open flame to burn combustible gases with  
2 combustion air provided by uncontrolled ambient air around the flame. This term  
3 includes both ground-level and elevated flares. If used as a verb, the term means the  
4 combustion of vent gas in a flare;
- 5 (5) "Flare minimization plan (FMP)," a document intended to meet the requirements of  
6 section 3 of this Act;
- 7 (6) "Gas," the state of matter that has neither independent shape nor volume, but tends  
8 to expand indefinitely. The term includes aerosols. The terms, gas, and gases, are  
9 interchangeable;
- 10 (7) "Petroleum refinery," a facility that processes petroleum, as defined in the North  
11 American Industrial Classification Standard No. 32411 as of January 1, 2008, and  
12 including any associated sulfur recovery plant;
- 13 (8) "Prevention measure," a component, system, procedure, or program that will  
14 minimize or eliminate flaring;
- 15 (9) "Reportable flaring event," any flaring where more than five hundred thousand  
16 standard cubic feet per calendar day of vent gas is flared or where sulfur dioxide  
17 emissions are greater than five hundred pounds per day. For flares that are operated  
18 as a backup, staged or cascade system, the volume is determined on a cumulative  
19 basis; the total volume equals the total of vent gas flared at each flare in the system.  
20 For flaring lasting more than one calendar day, each day of flaring constitutes a  
21 separate flaring event unless the owner or operator demonstrates to the satisfaction  
22 of the department that the cause of flaring is the same for two or more consecutive  
23 days. A reportable flaring event ends when it can be demonstrated by monitoring  
24 required in section 13 of this Act that the integrity of the water seal has been

1 maintained sufficiently to prevent vent gas to the flare tip. For flares without water  
2 seals or water seal monitors as required by section 13 of this Act a reportable flaring  
3 event ends when the rate of flow of vent gas falls below 0.5 feet per second;

4 (10) "Responsible manager," an employee of the facility or corporation who possesses  
5 sufficient authority to take the actions required for compliance with this Act;

6 (11) "Shutdown," the intentional cessation of a petroleum refining process unit or a unit  
7 operation within a petroleum refining process unit due to lack of feedstock or the  
8 need to conduct periodic maintenance, replacement of equipment, repair, or other  
9 operational requirements. A process unit includes subsets and components of the unit  
10 operation. Subsets and components includes reactors, heaters, vessels, columns,  
11 towers, pumps, compressors, exchangers, accumulators, valves, flanges, sample  
12 stations, pipelines, or sections of pipelines;

13 (12) "Startup," the setting into operation of a petroleum refining process unit for purposes  
14 of production. A process unit includes subsets and components of the unit operation.  
15 Subsets and components includes reactors, heaters, vessels, columns, towers, pumps,  
16 compressors, exchangers, accumulators, valves, flanges, sample stations, pipelines,  
17 or sections of pipelines;

18 (13) "Thermal oxidizer," an enclosed or partially enclosed combustion device, other than  
19 a flare, that is used to oxidize combustible gases;

20 (14) "Vent gas," any gas directed to a flare excluding assisting air or steam, flare pilot gas,  
21 and any continuous purge gases.

22 Section 2. Flaring is prohibited unless it is consistent with an approved flare minimization  
23 plan and all commitments due under that plan have been met. This standard does not apply if  
24 the department determines, based on an analysis conducted in accordance with this Act, that the

1 flaring is caused by an emergency and is necessary to prevent an accident, hazard, or release of  
2 vent gas directly to the atmosphere.

3 Section 3. The owner or operator of a petroleum refinery with one or more flares subject to  
4 this Act shall submit to the department a flare minimization plan in accordance with the  
5 schedule in section 4 of this Act. The flare minimization plan shall be certified and signed by  
6 a responsible manager and shall include:

7 (1) A description and technical information for each flare that is capable of receiving  
8 gases and the upstream equipment and processes that send gas to the flare including:

9 (a) A detailed process flow diagram accurately depicting all pipelines, process  
10 units, flare gas recovery systems, water seals, surge drums and knock-out pots,  
11 compressors and other equipment that vent to each flare. At a minimum, this  
12 shall include full and accurate as-built dimensions and design capacities of the  
13 flare gas recovery systems, compressors, water seals, surge drums and  
14 knockout pots; and

15 (b) Full and accurate descriptions including locations of all associated monitoring  
16 and control equipment;

17 (2) A description of the equipment, processes, and procedures installed or implemented  
18 within the last five years to reduce flaring. The description shall specify the year of  
19 installation;

20 (3) A description of any equipment, processes, or procedures the owner or operator plans  
21 to install or implement to eliminate or reduce flaring. The description shall specify  
22 the scheduled year of installation or implementation;

23 (4) A description and evaluation of prevention measures, including a schedule for the  
24 expeditious implementation of all feasible prevention measures, to address the

1 following:

2 (a) Flaring that has occurred or may reasonably be expected to occur during  
3 planned major maintenance activities, including startup and shutdown. The  
4 evaluation shall include a review of flaring that has occurred during these  
5 activities in the past five years, and shall consider the feasibility of performing  
6 these activities without flaring;

7 (b) Flaring that may reasonably be expected to occur due to issues of gas quantity  
8 and quality. The evaluation shall include an audit of the vent gas recovery  
9 capacity of each flare system, the storage capacity available for excess vent  
10 gases, and the scrubbing capacity available for vent gases including any  
11 limitations associated with scrubbing vent gases for use as a fuel; and shall  
12 consider the feasibility of reducing flaring through the recovery, treatment and  
13 use of the gas or other means; and

14 (c) Flaring caused by the recurrent failure of air pollution control equipment,  
15 process equipment, or a process to operate in a normal or usual manner. The  
16 evaluation shall consider the adequacy of existing maintenance schedules and  
17 protocols for such equipment. For purposes of this section, a failure is  
18 recurrent if it occurs more than twice during any five year period as a result of  
19 the same cause as identified in accordance with section 11 of this Act; and

20 (5) Any other information requested by the department as necessary to enable  
21 determination of compliance with applicable provisions of this Act. Failure to  
22 implement and maintain any equipment, processes, procedures or prevention  
23 measures in the flare minimization plan is a violation of this section.

24 Section 4. The owner or operator of a petroleum refinery with one or more flares subject to

1 this Act shall submit a flare minimization plan as required by section 3 of this Act.

2 Section 5. Prior to the approval of any flare minimization plan, the department shall identify  
3 an independent, qualified third party consultant or consultants to review the design of flare  
4 minimization plans and publish notice of any consultant's name and qualifications. The public  
5 shall then have thirty days to submit comments on any consultants. The department shall  
6 consider any written comments received during this period prior to approving a consultant. The  
7 consultant shall be known as the flare minimization plan design and compliance auditor.

8 Section 6. The flare minimization plan design and compliance auditor shall provide the  
9 department with timely reports as necessary for consideration in the department's completeness  
10 determinations, approvals, and disapprovals under section 8 of this Act. The department shall  
11 consider such reports in making its determinations under section 8 of this Act.

12 Section 7. The department shall provide the flare minimization plan design and compliance  
13 auditor with all information required to be submitted by the owner or operator under sections  
14 3 and 16 of this Act. The flare minimization plan design and compliance auditor shall provide  
15 the department with reports, comments or other information as necessary to determine  
16 compliance with section 2 of this Act, and sections 15 to 28, inclusive, of this Act, and such  
17 information shall be made available to the public upon request. The department shall consider  
18 the information submitted by the flare minimization plan design and compliance auditor in  
19 making any determinations under section 2 of this Act.

20 Section 8. The procedure for determining whether the flare minimization plan meets the  
21 applicable requirements of this regulation is as follows:

- 22 (1) Within forty-five days of receipt of the flare minimization plan, the department shall  
23 deem the plan complete if the department determines that it includes the information  
24 required by section 3 of this Act. In making its determination, the department shall

1 consider any reports of the independent design auditor. If the department determines  
2 that the proposed flare minimization plan is not complete, the department shall notify  
3 the owner or operator in writing. The notification shall specify the basis for this  
4 determination and the required corrective action;

5 (2) Upon receipt of such notification, the owner or operator shall correct the identified  
6 deficiencies and resubmit the proposed flare minimization plan within forty-five  
7 days. If the department determines that the owner or operator failed to correct any  
8 deficiency identified in the notification, the department shall disapprove the flare  
9 minimization plan;

10 (3) The department shall publish notice of the availability of the complete flare  
11 minimization plan (with exception of confidential information) and make the flare  
12 minimization plan available to the public for sixty days. The department shall  
13 consider any written comments received during this period prior to approving or  
14 disapproving the flare minimization plan. The department shall reopen the public  
15 comment period to consider a revised flare minimization plan if a request is made  
16 demonstrating that an additional comment period is in the public interest;

17 (4) Within forty-five days of the close of the public comment period, the department  
18 shall approve the flare minimization plan if the department determines that the plan  
19 meets the requirements of section 3 of this Act, and shall provide written notification  
20 to the owner or operator, as well as a brief response to all significant comments  
21 received from the public. This period may be extended if necessary to comply with  
22 state law. If the department determines that the flare minimization plan does not meet  
23 the requirements of section 3 of this Act, the department shall notify the owner or  
24 operator in writing. The notification shall specify the basis for this determination.

1 Upon receipt of such notification, the owner or operator shall correct the identified  
2 deficiencies and resubmit the flare minimization plan within forty-five days. If the  
3 department determines that the owner or operator failed to correct any deficiency  
4 identified in the notification, the department shall disapprove the flare minimization  
5 plan. If the owner or operator submitted a complete flare minimization plan in  
6 accordance with section 3 of this Act, and the department has not disapproved the  
7 flare minimization plan under this section, the flare minimization plan shall be  
8 considered an approved flare minimization plan until the department takes final  
9 action.

10 Section 9. The flare minimization plan shall be updated as follows:

- 11 (1) No more than twelve months following approval of the original flare minimization  
12 plan and annually thereafter, the owner or operator of a flare subject to this Act shall  
13 review the flare minimization plan and revise the plan to incorporate any new  
14 prevention measures identified as a result of the analyses prescribed in section 3 of  
15 this Act. The updates shall be approved and signed by a responsible manager;
- 16 (2) Prior to installing or modifying any equipment described in section 3 of this Act that  
17 requires a permit to operate, the owner or operator shall obtain an approved updated  
18 flare minimization plan addressing the new or modified equipment;
- 19 (3) Annual flare minimization plan updates (with exception of confidential information)  
20 shall be made available to the public for thirty days. The department shall consider  
21 any written comments received during this period prior to approving or disapproving  
22 the update;
- 23 (4) Within forty-five days of the close of the public comment period, the department  
24 shall approve the flare minimization plan update if the department determines that

1 the update meets the requirements of section 3 of this Act, and shall provide written  
2 notification to the owner or operator. The previously approved flare minimization  
3 plan together with the approved update constitutes the approved plan for purposes of  
4 section 2 of this Act. This period may be extended if necessary to comply with state  
5 law. If the department determines that the flare minimization plan update does not  
6 meet the requirements of section 3 of this Act, the department shall notify the owner  
7 or operator in writing. The notification will specify the basis for this determination  
8 and the required corrective action. Upon receipt of such notification, the owner or  
9 operator shall correct the identified deficiencies and resubmit the flare minimization  
10 plan update within thirty days. If the department determines that the owner or  
11 operator failed to correct the deficiencies identified in the notification, the department  
12 shall disapprove the flare minimization plan update. For purposes of section 2 of this  
13 Act, disapproval of the update constitutes disapproval of the existing flare  
14 minimization plan, unless otherwise specified by the department.

- 15 (5) If the owner or operator fails to submit a plan update as required by this section, the  
16 department shall provide written notification of the lapse. If the owner or operator  
17 fails to submit an update within thirty days of receipt of the notification, the existing  
18 flare minimization plan shall no longer be considered an approved plan for purposes  
19 of section 2 of this Act.

20 Section 10. The owner or operator of a flare subject to this Act shall notify the department  
21 as soon as possible, consistent with safe operation of the refinery, if the volume of vent gas  
22 flared exceeds five hundred thousand standard cubic feet per calendar day. The notification,  
23 either by phone, fax or electronically, shall be in a format specified by the department and  
24 include the flare source name and number, the start date and time, and the end date and time.

1 Section 11. The owner or operator of a flare subject to this Act shall submit a report to the  
2 department within sixty days following the end of the month in which a reportable flaring event  
3 occurs. The report shall be available to the public upon request and shall include the following:

4 (1) The results of an investigation to determine the primary cause and contributing  
5 factors for the flaring event;

6 (2) Any prevention measures that were considered or implemented to prevent recurrence  
7 together with a justification for rejecting any measures that were considered but not  
8 implemented;

9 (3) If appropriate, an explanation of why the flaring is consistent with an approved flare  
10 minimization plan;

11 (4) Where applicable, an explanation of why the flaring was an emergency and necessary  
12 to prevent an accident, hazard, or release of vent gas to the atmosphere or where, due  
13 to a regulatory mandate to vent to a flare, it cannot be recovered, treated and used as  
14 fuel gas at the refinery; and

15 (5) The volume of vent gas flared, the calculated methane, non-methane hydrocarbon  
16 and sulfur dioxide emissions associated with the reportable flaring event.

17 Section 12. When submitting the initial flare minimization plan, any updated flare  
18 minimization plan or any other report required by this Act, the owner or operator shall designate  
19 as confidential any information claimed to be exempt from public disclosure under chapter 1-27.  
20 If a document is submitted that contains information designated confidential in accordance with  
21 this section, the owner or operator shall provide a justification for this designation and shall  
22 submit a separate copy of the document with the information designated confidential redacted.

23 Section 13. The owner or operator of a flare subject to this Act with a water seal shall  
24 continuously monitor and record the water level and pressure of the water seal that services each

1 flare. Any new installation of a water seal shall be subject to this requirement immediately.  
2 Records of these measurements shall be retained for one year.

3 Section 14. Monitoring devices required pursuant to section 13 of this Act shall be subject  
4 to the following reporting and record keeping requirements:

5 (1) Parametric monitor periods of inoperation greater than twenty-four continuous hours  
6 shall be reported by the following working day, followed by notification of  
7 resumption of monitoring to the department;

8 (2) Parametric monitor periods of inoperation shall not exceed fifteen consecutive days  
9 per incident or thirty calendar days per consecutive twelve-month period;

10 (3) Any violation of permit conditions or department regulations to which the source is  
11 required to conform, as indicated by the monitor, shall be reported to the department  
12 within ninety-six hours after such occurrence. The report shall include the nature,  
13 extent, and cause;

14 (4) Records shall be maintained for a period of at least two years and shall be made  
15 available to the department on request. The records shall include:

16 (a) Dates and duration of monitoring system periods of inoperation; and

17 (b) Tests, calibrations, adjustments, and maintenance; and

18 (5) The person responsible for emissions being monitored shall maintain and calibrate  
19 all required monitors and recording devices in accordance with the applicable  
20 manufacturer's specifications. In order to claim that a manufacturer's specification is  
21 not applicable, the person responsible for emissions shall have, and follow, a written  
22 maintenance policy that was developed for the device in question. The written policy  
23 shall explain and justify the difference between the written procedure and the  
24 manufacturer's procedure.

1 Section 15. Terms used in sections 15 to 28, inclusive, of this Act mean:

- 2 (1) "Department," the Department of Environment and Natural Resources;
- 3 (2) "Flare," a combustion device that uses an open flame to burn combustible gases with  
4 combustion air provided by uncontrolled ambient air around the flame. Flares may  
5 be either continuous or intermittent and are not equipped with devices for fuel-air  
6 mix control or for temperature control. This term includes both ground and elevated  
7 flares;
- 8 (3) "Flare monitoring system," all sample systems, transducers, transmitters, data  
9 acquisition equipment, data recording equipment, video monitoring equipment, and  
10 video recording equipment involved in flare monitoring;
- 11 (4) "Flaring," a high-temperature combustion process used to burn vent gases;
- 12 (5) "Gas," the state of matter that has neither independent shape nor volume, but tends  
13 to expand indefinitely. The term, gas, includes aerosols. The terms, gas, and, gases,  
14 are interchangeable;
- 15 (6) "Petroleum refinery," a facility that processes petroleum, as defined in the North  
16 American Industrial Classification Standard No. 32411 as of January 1, 2008, and  
17 including any associated sulfur recovery plant;
- 18 (7) "Pilot gas," the gas used to maintain the presence of a flame for ignition of vent  
19 gases;
- 20 (8) "Purge gas," the gas used to prevent air backflow in the flare system when there is no  
21 vent gas;
- 22 (9) "Sulfur recovery plant," a process unit that processes sulfur and ammonia containing  
23 material and produces a final product of elemental sulfur;
- 24 (10) "Thermal oxidizer," an enclosed or partially enclosed combustion device that is used

1 to oxidize combustible gases, that generally comes equipped with controls for  
2 combustion chamber temperature and often with controls for air and fuel mixture,  
3 and that exhausts all combustion products through a vent, duct, or stack so that  
4 emissions can be measured directly;

5 (11) "Vent gas," any gas directed to a flare excluding assisting air or steam, flare pilot gas,  
6 and any continuous purge gases.

7 Section 16. The owner or operator of a flare shall submit a monthly report to the department  
8 on or before thirty days after the end of each month for each flare subject to this Act. Only one  
9 report is required for a staged or cascading flare system if all flares in the system serve the same  
10 header or headers. The report shall be in an electronic format approved by the department. Each  
11 monthly report shall include all of the following:

12 (1) The total volumetric flow of vent gas in standard cubic feet for each day and for the  
13 month, and, effective for the first full month after the commencement of the  
14 monitoring required by section 18 of this Act, for each hour of the month;

15 (2) If vent gas composition is monitored using sampling or integrated sampling, total  
16 hydrocarbon content as propane by volume, methane content by volume, and,  
17 hydrogen sulfide content by volume, for each sample or integrated sample required  
18 by section 19 of this Act. If the content of any additional compound or compounds  
19 is determined by the analysis of a sample or integrated sample, the content by volume  
20 of each additional compound;

21 (3) If vent gas composition is monitored by a continuous analyzer or analyzers pursuant  
22 to section 19 of this Act, average total hydrocarbon content as propane by volume,  
23 average methane content by volume, and, depending upon the analytical method used  
24 pursuant to sections 25 to 27, inclusive, of this Act, total reduced sulfur content by

1 volume or hydrogen sulfide content by volume of vent gas flared for each hour of the  
2 month. If the content of any additional compound or compounds is determined by the  
3 continuous analyzer or analyzers, the average content by volume for each additional  
4 compound for each hour of the month;

5 (4) If the flow monitor installed pursuant to section 18 of this Act measures molecular  
6 weight, the average molecular weight for each hour of the month;

7 (5) For any pilot and purge gas used, the type of gas used, the volumetric flow for each  
8 day and for the month, and the means used to determine flow;

9 (6) For any twenty-four-hour period during which more than one million standard cubic  
10 feet of vent gas was flared, a description of the flaring including the cause, time of  
11 occurrence and duration, the source or equipment from which the vent gas originated,  
12 and any measures taken to reduce or eliminate flaring;

13 (7) Flare monitoring system downtime periods, including dates and times'

14 (8) The archive of images recorded for the month pursuant to section 24 of this Act; and

15 (9) For each day and for the month provide calculated methane, non-methane and sulfur  
16 dioxide emissions. For the purposes of emission calculations only, a flare control  
17 efficiency of ninety-eight percent shall be used for hydrocarbon flares, and a flare  
18 control efficiency of ninety-three percent shall be used for flexi-gas flares or if, based  
19 on the composition analysis specified in section 19 of this Act, the calculated lower  
20 heating value of the vent gas is less than three hundred british thermal units/standard  
21 cubic foot.

22 Section 17. Twelve months after the effective date of this Act and every six months  
23 thereafter, the owner or operator of a flare shall submit a flow verification report to the  
24 department for each flare subject to the Act. The flow verification report shall be included in

1 the corresponding monthly report required by section 16 of this Act. Only one report is required  
2 for a staged or cascading flare system if all flares in the system serve the same header or  
3 headers. The report shall compare flow as measured by the flow monitoring equipment required  
4 by section 16 of this Act and a flow verification pursuant to section 28 of this Act for the same  
5 period or periods of time. The owner or operator shall demonstrate that the flow verification was  
6 performed using good engineering practices. If there are no flaring events as described in section  
7 16 of this Act during the preceding six-month period, a flow verification report is not required  
8 for that period.

9 Section 18. No owner or operator of a petroleum refinery may operate a flare unless vent gas  
10 to the flare is continuously monitored for volumetric flow by a device that meets the following  
11 requirements:

- 12 (1) The minimum detectible velocity shall be 0.1 foot per second;
- 13 (2) The device shall continuously measure the range of flow rates corresponding to  
14 velocities from 0.5 to 275 feet per second in the header in which the device is  
15 installed;
- 16 (3) The device shall have a manufacturer's specified accuracy of  $\pm 5\%$  over the range of  
17 1 to 275 feet per second;
- 18 (4) The device shall be installed at a location where measured volumetric flow is  
19 representative of flow to the flare or to the flare system in the case of a staged or  
20 cascading flare system consisting of more than one flare;
- 21 (5) The owner or operator shall provide access for the department to verify proper  
22 installation and operation of the flare monitoring system; and
- 23 (6) The flow monitoring system shall be maintained to be accurate to within  $\pm 20\%$  as  
24 demonstrated by the flow verification report specified in section 17 of this Act.

1 Section 19. No owner or operator of a petroleum refinery may operate a flare unless the  
2 following requirements are met:

3 (1) Requirements applicable to all vent gas composition monitoring:

4 (a) Vent gas monitored for composition, whether by sampling, integrated  
5 sampling, or continuous monitoring, shall be taken from a location at which  
6 samples are representative of vent gas composition. If flares share a common  
7 header, a sample from the header will be deemed representative of vent gas  
8 composition for all flares served by the header;

9 (b) The monitoring system shall provide access for the department to collect vent  
10 gas samples to verify the analyses required by this section;

11 (2) Until the requirements of subdivision (3) of this section are met, the owner or  
12 operator shall monitor vent gas composition through sampling that meets the  
13 following requirements:

14 (a) For each day on which flaring occurs, one sample shall be taken within thirty  
15 minutes of the commencement of flaring;

16 (b) Samples may be taken from the flare header or from an alternate location at  
17 which samples are representative of vent gas composition; and

18 (c) Samples shall be analyzed pursuant to section 25 of this Act.

19 (3) The owner or operator shall monitor vent gas composition using one of the following  
20 four methods:

21 (a) Sampling that meets the following requirements:

22 (i) If the flow rate of vent gas flared in any consecutive fifteen minute  
23 period continuously exceeds three hundred thirty standard cubic feet per  
24 minute, a sample shall be taken within fifteen minutes, except that, for

1 flares exclusively serving sulfur or ammonia plants, a sample shall be  
2 taken within one hour or composition data representing worst-case  
3 conditions shall be provided by the owner or operator and verified by  
4 the department. The sampling frequency thereafter shall be one sample  
5 every three hours and shall continue until the flow rate of vent gas  
6 flared in any consecutive fifteen minute period is continuously three  
7 hundred thirty standard cubic feet per minute or less. In no case shall a  
8 sample be required more frequently than once every three hours; and

9 (ii) Samples shall be analyzed pursuant to section 25 this Act;

10 (b) Integrated sampling that meets the following requirements:

11 (i) If the flow rate of vent gas flared in any consecutive fifteen minute  
12 period continuously exceeds three hundred thirty standard cubic feet per  
13 minute, integrated sampling shall begin within fifteen minutes and shall  
14 continue until the flow rate of vent gas flared in any consecutive fifteen  
15 minute period is continuously three hundred thirty standard cubic feet  
16 per minute or less;

17 (ii) Integrated sampling shall consist of a minimum of one aliquot for each  
18 fifteen minute period until the sample container is full. If sampling is  
19 still required pursuant to this section, a new sample container shall be  
20 placed in service within one hour after the previous container was  
21 filled. A sample container shall not be used for a sampling period that  
22 exceeds twenty-four hours;

23 (iii) Samples shall be analyzed pursuant to section 25 of this Act; and

24 (c) Continuous analyzers that meet the following requirements:

- 1 (i) The analyzers shall continuously monitor for total hydrocarbon,  
2 methane, and, depending upon the analytical method used pursuant to  
3 section 25 of this Act, hydrogen sulfide or total reduced sulfur;
- 4 (ii) The hydrocarbon analyzer shall have a full-scale range of one hundred  
5 percent total hydrocarbon; and
- 6 (iii) Each analyzer shall be maintained to be accurate to within twenty  
7 percent when compared to any field accuracy tests or to within five  
8 percent of full scale;
- 9 (4) A continuous analyzer employing gas chromatography that meets the following  
10 requirements:
  - 11 (a) The gas chromatography system shall monitor for total hydrocarbon, methane,  
12 and hydrogen sulfide; and
  - 13 (b) The gas chromatography system shall be maintained to be accurate to within  
14 five percent of full scale.

15 Section 20. Any flare subject to this Act shall be equipped and operated with an automatic  
16 igniter or a continuous burning pilot, which shall be maintained in good working order. If a pilot  
17 flame is employed, the flame shall be monitored with a device to detect the presence of the pilot  
18 flame. If an electric arc ignition system is employed, the system shall pulse on detection of loss  
19 of pilot flame and until the pilot flame is reestablished.

20 Section 21. No owner or operator of a petroleum refinery may operate a flare unless  
21 volumetric flows of purge and pilot gases are monitored by flow measuring devices, or other  
22 parameters are monitored so that volumetric flows of pilot and purge gas may be calculated  
23 based on pilot design and the parameters monitored.

24 Section 22. Except as provided in section 24 of this Act, the owner or operator of a flare

1 shall maintain records for all the information required to be monitored for a period of five years  
2 and make such records available to the department upon request. The department shall  
3 promulgate rules pursuant to chapter 1-26 outlining a process for members of the public to  
4 request records for the information required to be monitored. All reasonable public requests for  
5 such monitoring data shall be met.

6 Section 23. Persons responsible for monitoring subject to this Act shall comply with the  
7 following:

8 (1) Periods of flare monitoring system inoperation greater than twenty-four continuous  
9 hours shall be reported by the following working day, followed by notification of  
10 resumption of monitoring. Adequate proof of expeditious repair shall be furnished  
11 to the department for downtime in excess of fifteen consecutive days. Periods of  
12 inoperation of the vent gas flow monitoring required by section 18 of this Act may  
13 not exceed thirty days per calendar year. Periods of inoperation of vent gas  
14 composition monitoring may not exceed thirty days per calendar year. Periods of  
15 inoperation of the vent gas composition monitoring may not exceed thirty days per  
16 calendar year per analyzer. Periods of inoperation of video monitoring may not  
17 exceed thirty days per calendar year;

18 (2) During periods of inoperation of continuous analyzers or auto-samplers installed  
19 pursuant to section 19 of this Act, persons responsible for monitoring shall take  
20 samples as required by section 19 of this Act. During periods of inoperation of flow  
21 monitors, flow shall be calculated using good engineering practices;

22 (3) Any person responsible for monitors subject to this Act shall maintain and calibrate  
23 all required monitors and recording devices in accordance with the applicable  
24 manufacturer's specifications. In order to claim that a manufacturer's specification is

1 not applicable, the person responsible for emissions shall have, and follow, a written  
2 maintenance policy that was developed for the device in question. The written policy  
3 shall explain and justify the difference between the written procedure and the  
4 manufacturer's procedure; and

- 5 (4) All in-line continuous analyzer and flow monitoring data shall be continuously  
6 recorded by an electronic data acquisition system capable of one-minute averages.  
7 Flow monitoring data shall be recorded as one-minute averages.

8 Section 24. For each flare equipped with video monitoring capability, the owner or operator  
9 of a flare subject to this Act shall install and maintain equipment that records a real-time digital  
10 image of the flare and flame at a frame rate of no less than one frame per minute. The recorded  
11 image of the flare shall be of sufficient size, contrast, and resolution to be readily apparent in  
12 the overall image or frame. The image shall include an embedded date and time stamp. The  
13 equipment shall archive the images for each twenty-four-hour period. For any flare for which  
14 the report required by section 16 of this Act shows that more than one million standard cubic  
15 feet of vent gas was flared in any twenty-four-hour period, the owner or operator of the flare  
16 shall, within ninety days after the end of the month covered by the report, meet the same  
17 requirements as those imposed by this section for flares with existing video monitoring  
18 capability.

19 Section 25. Samples and integrated samples shall be analyzed using the following test  
20 methods, or latest revision, where applicable:

- 21 (1) Total hydrocarbon content and methane content of vent gas shall be determined using  
22 ASTM Method D1945-96 as of January 1, 2008, ASTM Method UOP 539- 97 as of  
23 January 1, 2008, or EPA Method 18 as of January 1, 2008;  
24 (2) Hydrogen sulfide content of vent gas shall be determined using ASTM Method

1 D1945-96 as of January 1, 2008, or ASTM Method UOP 539-97 as of January 1,  
2 2008; and

3 (3) Any alternative method to the above methods if approved by the department.

4 Section 26. Except as provided in section 27 of this Act, if vent gas composition is  
5 monitored using continuous analyzers, the analyzers shall employ the following methods, or  
6 latest revision, where applicable:

7 (1) Total hydrocarbon content and methane content of vent gas shall be determined using  
8 EPA Method 25A or 25B as of January 1, 2008;

9 (2) Total reduced sulfur content of vent gas shall be determined using ASTM Method  
10 D4468-85 as of January 1, 2008;

11 (3) Hydrogen sulfide content shall be determined using ASTM Method D4084-94 as of  
12 January 1, 2008; and

13 (4) Any alternative method to the above methods if approved by the department.

14 Section 27. If vent gas composition is monitored with a continuous analyzer employing gas  
15 chromatography, the following requirements shall be met:

16 (1) ASTM Method D1945-96 as of January 1, 2008, or ASTM Method UOP 539- 97 as  
17 of January 1, 2008;

18 (2) The system shall analyze samples for total hydrocarbon content, methane content,  
19 and hydrogen sulfide content;

20 (3) The minimum sampling frequency shall be one sample every thirty minutes; and

21 (4) Any alternative method to the above methods if approved by the department.

22 Section 28. For purposes of the semiannual verification required by section 17 of this Act,  
23 vent gas flow shall be determined using one or more of the following methods:

24 (1) Bay Area Air Quality Management District Manual of Procedures, Volume IV,

- 1 ST-17 and ST-18 as of January 1, 2008;
- 2 (2) EPA Methods 1 and 2 as of January 1, 2008;
- 3 (3) Other flow monitoring devices or process monitors;
- 4 (4) Any verification method recommended by the manufacturer of the flow monitoring  
5 equipment installed pursuant to section 18 of this Act;
- 6 (5) Tracer gas dilution or velocity;
- 7 (6) Any alternative method approved by the department.

8 Section 29. Terms used in sections 29 to 53, inclusive of this Act, mean:

- 9 (1) "Background," the ambient concentration of total organic compounds determined at  
10 least ten feet upwind from the equipment to be inspected and not influenced by any  
11 specific emission point as indicated by a hydrocarbon analyzer specified by section  
12 44 of this Act;
- 13 (2) "Connection," flanged, screwed, or other joined fittings used to connect any piping  
14 or equipment;
- 15 (3) "Department," the Department of Environment and Natural Resources;
- 16 (4) "Equipment," all components including valves, pumps, compressors, pressure relief  
17 devices, diaphragms, hatches, fittings, sampling ports, pipes, plugs, open-ended lines,  
18 gages, or sight-glasses;
- 19 (5) "Inaccessible equipment," any equipment located over thirteen feet above the ground  
20 when access is required from the ground; or any equipment located over six and one-  
21 half feet away from a platform when access is required from a platform;
- 22 (6) "Inspection," the determination of the concentration of total organic compounds  
23 leaking from equipment using EPA Reference Method 21 as of January 1, 2008, as  
24 required by section 44 of this Act;

- 1 (7) "Leak." the concentration of total organic compounds above background, expressed  
2 as methane, as measured one centimeter or less from the leak using EPA Reference  
3 Method 21 as of January 1, 2008, in accordance with section 48 of this Act;
- 4 (8) "Leak minimization," reducing the leak to the lowest achievable level using best  
5 modern practices and without shutting down the process the equipment serves.
- 6 (9) "Leak repair," the tightening, adjustment, or addition of material, or the replacement  
7 of the equipment, which reduces the leakage to the atmosphere below the applicable  
8 standard in sections 30 to 37, inclusive, of this Act;
- 9 (10) "Liquid leak," dripping of liquid at a rate of greater than three drops per minute and  
10 a concentration of total organic compounds greater than the applicable leak standard  
11 in sections 30 to 37, inclusive, of this Act;
- 12 (11) "Organic compound," any compound of carbon, excluding methane, carbon  
13 monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and  
14 ammonium carbonate;
- 15 (12) "Petroleum refinery," any facility that processes petroleum products as defined in  
16 North American Industrial Classification Standard Number 32411, Petroleum refining  
17 as of January 1, 2008;
- 18 (13) "Pressure relief device," the automatic pressure-relieving device actuated by the static  
19 pressure upstream of the device including pressure relief valves and rupture disks;
- 20 (14) "Process unit," a manufacturing process which is independent of other processes and  
21 is continuous when supplied with a constant feed or raw materials and has sufficient  
22 storage facilities for product;
- 23 (15) "Quarter," one of the four consecutive three-month divisions of the calendar year  
24 beginning on January first;

- 1 (16) "Reinspection," any inspection following the minimization or repair of leaking  
2 equipment;
- 3 (17) "Rupture disc," the thin metal diaphragm held between flanges;
- 4 (18) "Total organic compounds," the concentration of organic compounds and methane  
5 as indicated by a hydrocarbon analyzer as specified by section 44 of this Act;
- 6 (19) "Turnaround," the scheduled shutdown of a process unit for maintenance and repair  
7 work;
- 8 (20) "Valve," any device that regulates the flow of process material by means of an  
9 external actuator acting to permit or block passage of liquids or gases;
- 10 (21) "Weephole," a drain hole in the discharge horn of a pressure relief device;
- 11 (22) "Major leak," any leak that cannot be minimized below a concentration of ten  
12 thousand parts per million total organic compounds, expressed as methane.

13 Section 30. Except for valves, pumps and compressors, connections and pressure relief  
14 devices subject to the requirements of sections 31 to 35, inclusive, of this Act, no person may  
15 use any equipment that leaks total organic compounds in excess of one hundred parts per  
16 million unless the leak has been discovered by the operator, minimized within twenty-four  
17 hours, and repaired within seven days.

18 Section 31. No person may use any valve that leaks total organic compounds in excess of  
19 one hundred parts per million unless one of the following conditions is met:

- 20 (1) If the leak has been discovered by the operator, minimized within twenty-four hours  
21 and repaired within seven days;
- 22 (2) If the leak has been discovered by the department, repaired within twenty-four hours;  
23 or
- 24 (3) The valve meets the applicable provisions of section 35 of this Act.

1 Section 32. No person may use any pump or compressor that leaks total organic compounds  
2 in excess of five hundred parts per million unless one of the following conditions is met:

- 3 (1) If the leak has been discovered by the operator, minimized within twenty-four hours  
4 and repaired within seven days;
- 5 (2) If the leak has been discovered by the department, repaired within twenty-four hours;  
6 or
- 7 (3) The pump or compressor meets the applicable provisions of section 35 of this Act.

8 Section 33. No person may use any connection that leaks total organic compounds in excess  
9 of one hundred parts per million unless one of the following conditions is met:

- 10 (1) If the leak has been discovered by the operator, minimized within twenty-four hours  
11 and repaired within seven days;
- 12 (2) If the connection is inspected as required by this Act and the leak has been  
13 discovered by the department, repaired within twenty-four hours; or
- 14 (3) The connection meets the applicable provisions of section \_\_\_ of this Act.

15 Section 34. No person may use any pressure relief device that leaks total organic compounds  
16 in excess of five hundred parts per million unless the leak has been discovered by the operator,  
17 minimized within twenty-four hours and repaired within fifteen days; or if the leak has been  
18 discovered by the department, repaired within seven days.

19 Section 35. Any valve, connection, pressure relief device, pump, or compressor which  
20 cannot be repaired as required by sections 31, 32, or 34 of this Act, shall comply with the  
21 following conditions:

- 22 (1) The valve, connection, pressure relief device, pump, or compressor is repaired or  
23 replaced within five years or at the next scheduled turnaround, whichever date comes  
24 first;

1 (2) The number of individual pieces of equipment awaiting repair does not exceed the  
 2 percentages of the total population for each equipment type expressed in the table  
 3 below or one piece of equipment:

Equipment	Total Number of Nonrepairable Equipment Allowed (%)
Valves (including valves with major leaks) and connections as allowed by subdivision (3) of this section	0.30% of total number of valves
Valves with major leaks as allowed by subdivision (4) of this section	0.025% of total number of valves
Pressure relief devices	1.0% of total number of pressure relief devices
Pumps and compressors	1.0% of total number of pumps and compressors

12 (3) A connection that leaks in excess of one hundred parts per million and no greater  
 13 than ten thousand parts per million can be considered nonrepairable equipment  
 14 pursuant to this section provided each nonrepairable connection is considered as two  
 15 valves toward the total number of nonrepairable equipment allowed;

16 (4) A valve with a major leak may not be considered nonrepairable equipment pursuant  
 17 to this section for more than forty-five days after leak discovery, unless the mass  
 18 emission rate has been measured in accordance with section 48 of this Act and has  
 19 been determined to be less than fifteen pounds per day. The department shall be  
 20 notified no less than ninety-six hours prior to conducting measurements required by  
 21 this section.

22 Section 36. No person may use any equipment that leaks liquid as defined in section 29 of

1 this Act, unless the leak has been discovered by the operator, minimized within twenty-four  
2 hours and repaired within seven days.

3 Section 37. The requirements of sections 30 to 36, inclusive, of this Act, do not apply to any  
4 facility which complies with an alternative emission reduction plan that satisfies all the  
5 requirements in sections 42 and 43 of this Act.

6 Section 38. Any person subject to this Act shall comply with the following inspection  
7 requirements:

- 8 (1) All connections that have been opened during a turnaround shall be inspected for  
9 leaks within ninety days after start-up is completed following a turnaround;
- 10 (2) Except as provided under subdivision (3) of this section and sections 41 to 43,  
11 inclusive, of this Act, all valves, pressure relief devices, pumps, or compressors  
12 subject to this Act shall be inspected quarterly;
- 13 (3) Inaccessible valves and pressure relief devices subject to this Act shall be inspected  
14 at least once a year;
- 15 (4) Any equipment subject to this Act may be inspected at any time by the department;
- 16 (5) Any equipment found to have a leak in excess of any standards in sections 30 to 37,  
17 inclusive, of this Act, shall be reinspected within twenty-four hours after leak repair  
18 or minimization;
- 19 (6) Any connection that is inspected annually or that is part of a department approved  
20 connection inspection program is subject to the provisions of subdivision (2) of  
21 section 33 of this Act;
- 22 (7) Any pressure relief device equipped with a weep hole shall be inspected quarterly at  
23 the outlet of the weep hole if the horn outlet is inaccessible;
- 24 (8) Any pressure relief device that releases to the atmosphere shall be inspected within

1 five working days after the release event;

2 (9) Any valve placed on the non-repairable list shall be inspected at least once per  
3 quarter; and

4 (10) The mass emission rate of any valve with a major leak placed on the nonrepairable  
5 list in accordance with section 35 of this Act shall be determined at least once per  
6 calendar year. The department shall be notified no less than ninety-six hours prior to  
7 conducting the measurements required by this section.

8 Section 39. Any person subject to this Act shall comply with the following identification  
9 requirements:

10 (1) All valves, pressure relief devices, pumps and compressors shall be identified with  
11 a unique permanent identification code approved by the department. This  
12 identification code shall be used to refer to the valve, pressure relief device, pump,  
13 or compressor location. Records for each valve, pressure relief device, pump, or  
14 compressor shall refer to this identification code;

15 (2) All equipment with a leak in excess of the applicable leak limitation in sections 30  
16 to 37, inclusive, of this Act, shall be tagged with a brightly colored weatherproof tag  
17 indicating the date the leak was detected.

18 Section 40. All pumps and compressors subject to this Act shall be visually inspected daily  
19 for leaks. If a leak is observed, the concentration of organic compounds shall be determined.

20 Section 41. The inspection frequency for valves may change from quarterly to annually if  
21 all of the following conditions are satisfied:

22 (1) The valve has been operated leak free for five consecutive quarters;

23 (2) Records are submitted and approval from the department is obtained; and

24 (3) The valve remains leak free. If a leak is discovered, the inspection frequency will

1           revert back to quarterly.

2           Section 42. Any person may comply with section 37 of this Act by developing and  
3 submitting an alternate emission reduction plan to the department that satisfies all of the  
4 following conditions:

5           (1) The plan shall contain all information necessary to establish, document, measure  
6 progress, and verify compliance with an emission reduction level set forth in this Act;

7           (2) All emission reductions must be achieved solely from equipment and connections  
8 subject to this Act;

9           (3) Public notice and a sixty-day public comment period shall be provided;

10          (4) Following the public comment period, the plan shall be submitted to and approved  
11 in writing by the Environmental Protection Agency, Region VIII prior to the  
12 department approval of the plan; and

13          (5) An alternate emission reduction plan must provide for emission reductions equal to  
14 or greater than required by the specific limits in this Act.

15          Section 43. A facility is subject to the limits contained in sections 30 to 36, inclusive, of this  
16 Act, until receipt of the written approvals of both the department and the Environmental  
17 Protection Agency of an alternate emission reduction plan that complies with section 42 of this  
18 Act.

19          Section 44. Any instrument used for the measurement of organic compounds shall be a  
20 combustible gas indicator that has been approved by the department and meets the specifications  
21 and performance criteria of and has been calibrated in accordance with EPA Reference Method  
22 21 (40 CFR 60, Appendix A) as of January 1, 2008.

23          Section 45. Any person subject to the requirements of this Act shall maintain records that  
24 provided the following information:

- 1 (1) For equipment subject to subdivision (1) of section 39 of this Act, the equipment  
2 identification code, equipment type, and the location of the equipment;
- 3 (2) The date of all inspections and reinspections and the corresponding leak  
4 concentrations measured as specified by section 38 of this Act;
- 5 (3) Records shall be maintained for at least five years and shall be made available to the  
6 department for inspection at any time; and
- 7 (4) Records of all nonrepairable equipment subject to the provisions of section 35 of this  
8 Act shall be maintained, and contain the equipment identification code, equipment  
9 type, equipment location, leak concentration measurement and date, the duration the  
10 equipment has been on the nonrepairable list, any mass emission rate determination  
11 and date the determination was made, last process unit turnaround date, and total  
12 number of nonrepairable equipment awaiting repair.

13 Section 46. Any person subject to the requirements of this Act shall submit the information  
14 to the department:

- 15 (1) Records of all nonrepairable equipment subject to the provisions of section 35 of this  
16 Act shall be submitted to the department quarterly and contain the equipment  
17 identification code, equipment type, equipment location, leak concentration  
18 measurement and date, the duration the equipment has been on the nonrepairable list,  
19 any mass emission rate determination, date the determination was made, last process  
20 unit turnaround date, and total number of nonrepairable equipment awaiting repair;
- 21 (2) An inventory of the total numbers of valves, pressure relief devices, pumps, and  
22 compressors and connections to which this Act applies shall be submitted to the  
23 department at least once a year;
- 24 (3) The department shall promulgate rules, pursuant to chapter 1-26, outlining a process

1 for members of the public to request such required reports. All reasonable public  
2 requests shall be met.

3 Section 47. Samples of organic compounds shall be analyzed for initial boiling point as  
4 prescribed in ASTM D-1078- 98 or ASTM D-86, as of January 1, 2008.

5 Section 48. Inspections of equipment shall be conducted as prescribed by EPA Reference  
6 Method 21 (40 CFR 60, Appendix A) as of January 1, 2008.

7 Section 49. The control efficiency shall be determined by any of the following methods:

- 8 (1) BAAQMD Manual of Procedures, Volume IV, ST-7; and
- 9 (2) EPA Method 25 or 25A.

10 A source shall be considered in violation if the emissions of organic compounds measured  
11 by any of the referenced test methods exceed the standards of this Act.

12 Section 50. The mass emission determination as specified by section 35 of this Act shall be  
13 made using any of the following methods:

- 14 (1) EPA Protocol for Equipment Leak Emission Estimates, Chapter 4, Mass Emission  
15 Sampling, (EPA-453/R-95-017) November, 1995; or
- 16 (2) A method determined to be equivalent by the Environmental Protection Agency and  
17 approved by the department.

18 Section 51. All new proposed or modified refinery shall directly estimate its potential  
19 emissions of ultrafine particulate matter, consisting of particulate matter of a diameter equal to  
20 or less than 2.5 micrometers (PM2.5), and directly demonstrate compliance with the PM2.5  
21 National Ambient Air Quality Standard (NAAQS) as of January 1, 2008, in applications for  
22 prevention of significant deterioration permits. No refinery may use particulate matter of less  
23 than or equal to 10 micrometers (PM10) as a surrogate for PM2.5.

24 Section 52. A prevention of significant deterioration permit may not be issued without the

1 direct demonstration of compliance with the PM2.5 NAAQS required by section 44 of this Act.

2 Section 53. All prevention of significant deterioration permits issued for any new and  
3 modified refinery shall include direct limits on PM2.5. A prevention of significant deterioration  
4 permit may not rely on a limit for PM10 as a surrogate for the required PM2.5 limit.

5 Section 54. Any permit issued for a new or modified refinery shall include limits for  
6 nitrogen oxides from the gas turbine and heaters measured over a one-hour averaging time.

7 Section 55. The provisions of this Act do not apply to:

- 8 (1) Any flare or thermal oxidizer used to control emissions exclusively from organic  
9 liquid storage vessels;
- 10 (2) Thermal oxidizers used to control emissions exclusively from wastewater treatment  
11 systems;
- 12 (3) Thermal oxidizers used to control emissions exclusively from pump seals. This  
13 exemption does not apply if emissions from a pump are routed to a flare header;
- 14 (4) Seal systems and pressure relief devices vented to a vapor recovery or disposal  
15 system which reduces the emissions of organic components from the equipment by  
16 ninety-five percent or greater;
- 17 (5) Facilities which have less than one hundred valves or less than ten pumps and  
18 compressors; and
- 19 (6) Those connections at the interface between the loading rack and the vehicle being  
20 loaded.

21 Section 56. That § 1-40-4.1 be repealed.

22 ~~1-40-4.1. No rule that has been promulgated pursuant to Title 34A, 45, 46, or 46A may be~~  
23 ~~more stringent than any corresponding federal law, rule, or regulation governing an essentially~~  
24 ~~similar subject or issue.~~

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

706P0438

## SENATE STATE AFFAIRS ENGROSSED NO. **SJR 1** - 2/11/2008

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 and constitutional officers.

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 amendments to  
6 Article III and Article IV of the Constitution of the State of South Dakota, as set forth in  
7 sections 2 and 3 of this Joint Resolution, which is hereby agreed to, shall be submitted to the  
8 electors of the state 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.

12 Section 3. That Article IV, section 7 of the Constitution of the State of South Dakota, be  
13 amended to read as follows:

14 § 7. There shall be chosen by the qualified electors of the state at the general election of the  
15 Governor and every four years thereafter the following constitutional officers: attorney general,  
16 secretary of state, auditor, treasurer, and commissioner of school and public lands, who shall  
17 severally hold their offices for a term of four years. ~~Commencing with the 1992 general election,~~  
18 ~~no person may be elected to more than two consecutive terms as attorney general, secretary of~~  
19 ~~state, auditor, treasurer, or commissioner of school and public lands.~~