

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

400P0314

SENATE EDUCATION ENGROSSED NO. **HB 1047** - 2/14/2008

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

1 FOR AN ACT ENTITLED, An Act to make an appropriation to assist sparse school districts.

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

3 Section 1. There is hereby appropriated from the general fund the sum of two million forty-
4 three thousand one hundred thirty-eight dollars (\$2,043,138), or so much thereof as may be
5 necessary, to the Department of Education for the purpose of making the payments in
6 accordance with § 13-13-79.

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

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



State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

400P0337

HOUSE APPROPRIATIONS ENGROSSED NO. **HB 1085** - 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 South Dakota Building Authority to
2 provide for the construction, reconstruction, renovation, and modernization of science
3 facilities and laboratories at public universities and to make an appropriation therefor.

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

5 Section 1. It is in the public interest that the South Dakota Building Authority contract for
6 the construction, completion, equipping, including heating, air conditioning, plumbing, water,
7 sewer, electric facilities, sidewalks, parking, landscaping, architectural and engineering services,
8 asbestos abatement, removal of existing roofing and structures, and such other services or
9 actions as may be required to accomplish the projects enumerated in this Act, all at the
10 estimated cost of eighty-four million five hundred thousand dollars. The South Dakota Building
11 Authority may finance up to seventy-four million five hundred thousand dollars of the
12 construction costs through the issuance of revenue bonds, in accordance with this Act and
13 chapter 5-12.

14 Section 2. The projects to be financed, in whole or in part, through the issuance of revenue
15 bonds by the South Dakota Building Authority, are the following:



- 1 (1) The science building at Black Hills State University in Spearfish, South Dakota, for
2 an estimated cost of eight million seventy-eight thousand four hundred dollars;
- 3 (2) The chemistry building replacement at the South Dakota School of Mines and
4 Technology in Rapid City, South Dakota, for an estimated cost of seventeen million
5 nine hundred fifty-seven thousand seven hundred dollars of which ten million dollars
6 shall be provided from proceeds of bonds issued pursuant to subdivision (4) of
7 section 3 of chapter 110 of the 2005 Session Laws;
- 8 (3) The paleontology building at the South Dakota School of Mines and Technology in
9 Rapid City, South Dakota, for an estimated cost of seven million sixty-three thousand
10 nine hundred sixty-three dollars;
- 11 (4) The Agricultural Hall renovation at South Dakota State University in Brookings,
12 South Dakota, for an estimated cost of eight million six thousand two hundred
13 seventy-five dollars;
- 14 (5) The Arthur M. Pardee Laboratory renovation at the University of South Dakota, in
15 Vermillion, South Dakota, for an estimated cost of three million seven hundred
16 ninety-two thousand one hundred four dollars;
- 17 (6) The Churchill-Haines renovation at the University of South Dakota, in Vermillion,
18 South Dakota, for an estimated cost of six million seven hundred fifty-one thousand
19 one hundred forty-five dollars;
- 20 (7) The Akeley Lawrence Science Center renovation at the University of South Dakota,
21 in Vermillion, South Dakota, for an estimated cost of five million two hundred fifty-
22 six thousand seven hundred fifty-one dollars;
- 23 (8) The Habeger Science Center renovation at Dakota State University in Madison,
24 South Dakota, for an estimated cost of six million thirty-eight thousand six hundred

1 seventy dollars;

2 (9) The Dairy Microbiology Building upgrade at South Dakota State University in
3 Brookings, South Dakota, for an estimated cost of eight million two hundred fifty-
4 nine thousand two hundred fifty dollars;

5 (10) The MeWaldt-Jensen Hall science renovation and the Krikac Administration
6 Building science construction at Northern State University in Aberdeen, South
7 Dakota, for an estimated cost of two million seven hundred one thousand nine
8 hundred dollars; and

9 (11) The health sciences simulation center and the science laboratory facilities
10 construction at the University Center in Sioux Falls, South Dakota, for an estimated
11 cost of ten million five hundred ninety-three thousand eight hundred forty-two
12 dollars.

13 Section 3. The authorizations granted by this Act and all necessary appropriations required
14 to finance and to complete the projects remain effective through June 30, 2015.

15 Section 4. No indebtedness, bond, or obligation incurred or created under the authority of
16 this Act may be or may become a lien, charge, or liability against the State of South Dakota, nor
17 against the property or funds of the State of South Dakota within the meaning of the
18 Constitution or statutes of the state.

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

24 Section 6. The Board of Regents may make and enter into a lease agreement with the

1 Building Authority and make rental payments under the terms thereof, pursuant to chapter 5-12,
2 for the purposes of this Act.

3 Section 7. Rental payments under the terms of the lease authorized in section 8 of this Act
4 shall be paid from appropriations to be made by the Legislature for the payment of such rent to
5 support the purpose and the payment of bonds issued to cover up to thirty-two million five
6 hundred thousand dollars of construction costs authorized in section 1 of this Act. Rental
7 payments under the terms of the lease authorized in section 8 of this Act shall be paid from
8 higher education facility fees or from special student fees assessed by the Board of Regents for
9 the payment of bonds issued to cover up to forty-two million dollars of construction costs
10 authorized in section 1 of this Act.

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

400P0390

SENATE APPROPRIATIONS ENGROSSED NO. **HB 1087** - 2/19/2008

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

1 FOR AN ACT ENTITLED, An Act to revise the General Appropriations Act for fiscal year
2 2008 regarding appropriations to the Department of Executive Management, the Department
3 of Revenue and Regulation, the Department of Game, Fish and Parks, the Department of
4 Transportation, the Department of Education, the Board of Regents, the Department of
5 Human Services, and the Department of Environment and Natural Resources.

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

7 Section 1. That section 2 of chapter 25 of the 2007 Session Laws be amended to read as
8 follows:

9 DEPARTMENT OF EXECUTIVE MANAGEMENT

10 South Dakota Risk Pool

11 Operating Expenses, General Funds, delete "\$593,000" and insert "\$643,000"

12 Operating Expenses, Other Funds, delete "\$4,016,355" and insert "\$6,016,355"

13 Adjust all totals accordingly.

14 Section 2. That section 3 of chapter 25 of the 2007 Session Laws be amended to read as



1 follows:

2 DEPARTMENT OF REVENUE AND REGULATION

3 Secretariat

4 Operating Expenses, General Funds, delete "\$53,128" and insert "\$203,128"

5 Adjust all totals accordingly.

6 Section 3. That section 6 of chapter 25 of the 2007 Session Laws be amended to read as

7 follows:

8 DEPARTMENT OF GAME, FISH AND PARKS

9 Parks and Recreation

10 Operating Expenses, General Funds, delete "\$441,902" and insert "\$925,265"

11 Development and Improvement, Parks and Recreation

12 Operating Expenses, Federal Funds, delete "\$4,569,954" and insert "\$5,459,954"

13 Adjust all totals accordingly.

14 Section 4. That section 10 of chapter 25 of the 2007 Session Laws be amended to read as

15 follows:

16 DEPARTMENT OF TRANSPORTATION

17 General Operations

18 Operating Expenses, Other Funds, delete "\$86,842,230" and insert "\$81,592,230"

19 Adjust all totals accordingly.

20 Section 5. That section 11 of chapter 25 of the 2007 Session Laws be amended to read as

21 follows:

22 DEPARTMENT OF EDUCATION

23 Administration, Secretary of Education

24 Operating Expenses, General Funds, delete "\$337,286" and insert "\$587,286"

1 State Aid to General Education

2 Operating Expenses, General Funds, delete "\$308,704,345" and insert "\$311,073,555"

3 Technology in Schools

4 Operating Expenses, General Funds, delete "\$6,632,201" and insert "\$9,586,641"

5 Adjust all totals accordingly.

6 Section 6. That section 13 of chapter 25 of the 2007 Session Laws be amended to read as
7 follows:

8 BOARD OF REGENTS

9 Regents System Office

10 Operating Expenses, General Funds, delete "\$7,732,715" and insert "\$11,929,374"

11 University of South Dakota Proper

12 F.T.E. delete "1,166.9" and insert "1,172.9"

13 Adjust all totals accordingly.

14 University of South Dakota School of Medicine

15 Personal Services, Federal Funds, delete "\$5, 944,751" and insert "\$5,994,751"

16 Operating Expenses, Federal Funds, delete "\$10,910,268" and insert "\$11,210,268"

17 Adjust all totals accordingly.

18 South Dakota State University Proper

19 Personal Services, Federal Funds, delete "\$6,123,062" and insert "\$6,723,062"

20 Operating Expenses, Federal Funds, delete "\$14,971,290" and insert "\$16,371,290", and

21 Other Funds, delete "\$49,789,899" and insert "\$50,789,899"

22 Adjust all totals accordingly.

23 Dakota State University

24 Personal Services, Other Funds, delete "\$7,882,889" and insert "\$8,157,889"

1 Operating Expenses, Federal Funds, delete "\$2,191,307" and insert "\$2,291,307", and Other
2 Funds, delete "\$8,078,409" and insert "\$8,503,409".

3 Adjust all totals accordingly.

4 South Dakota School for the Deaf

5 Operating Expenses, Other Funds, delete "\$395,950" insert "\$526,409"

6 Adjust all totals accordingly.

7 South Dakota School for the Blind and Visually Impaired

8 Operating Expenses, Other Funds, delete "\$237,124" and insert "\$362,124"

9 Adjust all totals accordingly.

10 Section 7. That section 16 of chapter 25 of the 2007 Session Laws be amended to read as
11 follows:

12 DEPARTMENT OF HUMAN SERVICES

13 Alcohol and Drug Abuse

14 Operating Expenses, Other Funds, delete "\$474,939" and insert "\$965,939"

15 Adjust all totals accordingly.

16 Section 8. That section 17 of chapter 25 of the 2007 Session Laws be amended to read as
17 follows:

18 DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

19 Financial and Technical Assistance

20 Operating Expenses, Federal Funds, delete "\$595,998" and insert "\$1,075,998"

21 Adjust all totals accordingly.

22 Section 9. That chapter 25 of the 2007 Session Laws be amended by adding thereto a NEW
23 SECTION to read as follows:

24 Section 37. The state treasurer shall transfer to the state general fund four hundred eighty-

1 three thousand three hundred sixty-three dollars (\$483,363) from the Custer State Park
2 improvement fund for the payment of the Custer State Park improvement bond.

3 Section 10. That chapter 25 of the 2007 Session Laws be amended by adding thereto a NEW
4 SECTION to read as follows:

5 Section 38. The state treasurer shall transfer to the state general fund six hundred ninety-
6 three thousand six hundred eighty-eight dollars (\$693,688) from the Board of Regents for the
7 payment of the critical deferred maintenance bond.

8 Section 11. Funds appropriated by this Act which are unspent at the end of fiscal year 2008
9 may be carried over to fiscal year 2009.

10 Section 12. This Act is effective June 16, 2008.

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

299P0490

SENATE EDUCATION

ENGROSSED NO. **HB 1124** - 2/21/2008

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

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

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



State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

965P0433

SENATE APPROPRIATIONS ENGROSSED NO. **HB 1226** - 2/21/2008

Introduced by: Representative Haverly and Senator Apa

1 FOR AN ACT ENTITLED, An Act to provide funds to the postsecondary technical institutes.

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

3 Section 1. There is hereby appropriated from the general fund the sum of two million dollars
4 (\$2,000,000), or so much thereof as may be necessary, to the Department of Education for the
5 purposes of fulfilling the mission of the postsecondary technical institutes.

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

8 Section 3. Any amounts appropriated in this Act not lawfully expended or obligated by June
9 30, 2010, shall revert in accordance with § 4-8-21.



State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

929P0101

SENATE APPROPRIATIONS ENGROSSED NO. **HB 1227** - 2/21/2008

Introduced by: Representative Haverly and Senator Apa

1 FOR AN ACT ENTITLED, An Act to appropriate money to postsecondary technical institutes
2 for the maintenance and repair of buildings.

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

4 Section 1. There is hereby appropriated from the general fund the sum of one million dollars
5 (\$1,000,000), or so much thereof as may be necessary, to the Department of Education for the
6 maintenance and repair of postsecondary technical institute buildings.

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



State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

497P0126

SENATE EDUCATION ENGROSSED NO. **HB 1279** - 2/21/2008

Introduced by: Representatives Rhoden, Deadrick, Dykstra, Gilson, Halverson, Haverly, Heineman, Krebs, Lust, McLaughlin, Peters, Rave, Turbiville, Weems, and Wick and Senators Knudson, Dempster, Gray, McCracken, Nesselhuf, Olson (Ed), and Smidt (Orville)

1 FOR AN ACT ENTITLED, An Act to align math and science education with South Dakota's
2 historic and unique scientific opportunities, to direct the Department of Education to initiate
3 Project Lead the Way, to develop a clearinghouse for certain educational opportunities, and
4 to provide for an independent analysis of the state's content standards, and to make an
5 appropriation therefor, and to require the Department of Education to develop a framework
6 for a high school for the twenty-first century, and to require high schools to report on
7 activities and results relative to that framework.

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

9 Section 1. The Department of Education is hereby directed to initiate Project Lead the Way
10 or other similar project-based curriculum in the areas of science, technology, engineering, and
11 math in the state's middle and high schools. The purpose of the curriculum is to make math and
12 science relevant for students by providing them with hands-on, real-world experiences.

13 Section 2. The Department of Education shall develop a clearinghouse for youth



1 internships, pre-apprenticeships, mentoring opportunities, and other educational experiences
2 outside of the classroom that are available to middle and high school students within the state's
3 research, science, and technology infrastructure. The purpose of the clearinghouse is to facilitate
4 coordination among the middle schools, high schools, postsecondary technical institutes,
5 universities, and the businesses and industries that offer these educational experiences, and to
6 make students aware of the many unique opportunities available to them in South Dakota in the
7 areas of research, science, and technology. To further capitalize on the talent and resources of
8 the state's science and technology community, opportunities for professional development for
9 teachers shall also be coordinated through the clearinghouse.

10 Section 3. The Department of Education is further directed to provide for an independent
11 analysis of the state's content standards developed pursuant to § 13-3-48 in math and science.
12 The analysis is necessary to ensure that the content standards are aligned with the expectations
13 of the state's employers and postsecondary institutions, and that they are consistent with the
14 knowledge and skill necessary for science and technology development in our state and in the
15 global economy.

16 Section 4. There is hereby appropriated from the general fund the sum of one dollar (\$1),
17 or so much thereof as may be necessary, to the Department of Education for the purposes of
18 initiating the curriculum pursuant to section 1 of this Act through its Office of Career and
19 Technical Education and for providing for an independent analysis of the state's content
20 standards pursuant to section 3 of this Act. In addition, the secretary of education is hereby
21 authorized to accept any gifts, grants, or contributions, either public or private, for the purpose
22 of implementing the provisions in this Act.

23 Section 5. The secretary of education shall approve vouchers and the state auditor shall draw
24 warrants to pay expenditures authorized by this Act.

1 Section 6. Any amounts appropriated in this Act not lawfully expended or obligated by June
2 30, 2009, shall revert in accordance with the procedures prescribed in chapter 4-8.

3 Section 7. That chapter 13-3 be amended by adding thereto a NEW SECTION to read as
4 follows:

5 The secretary of the Department of Education shall develop a framework for building a high
6 school for the twenty-first century. The framework shall outline the characteristics of a high
7 school for the twenty-first century and the activities in which high schools can participate to
8 develop those characteristics.

9 Each accredited high school in the state shall annually report to the department on the
10 activities taking place in that school relative to the framework and the results of those activities.

11 The department shall, in turn, provide access to the report of each high school on the
12 department's web site.

13 The Department of Education may promulgate rules pursuant to chapter 1-26 to provide for
14 the development of the framework, and to establish procedures and time lines for the collection
15 and reporting of the data required by this section.

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

488P0355

SENATE EDUCATION

ENGROSSED NO. **HB 1300** - 2/21/2008

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

Introduced by: Representatives Heineman, Dykstra, Gilson, Hills, Krebs, Lust, McLaughlin, Novstrup (Al), Rave, Rhoden, Weems, and Wick and Senators Olson (Ed), Dempster, Jerstad, Knudson, Nesselhuf, Peterson (Jim), and Smidt (Orville)

1 FOR AN ACT ENTITLED, An Act to revise certain provisions related to the payment of
2 additional funds to consolidated school districts.

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

4 Section 1. That § 13-6-92 be amended to read as follows:

5 13-6-92. If two or more school districts consolidate after July 1, 2001 and ~~prior to~~ on or
6 before July 1, 2007, the new school district is entitled to an additional three hundred dollars per
7 average daily membership as defined in § 13-13-10.1, up to a maximum of four hundred average
8 daily membership from each school district or a prorated portion thereof from a partial school
9 district as it existed prior to consolidation for the first year after consolidation. If two or more
10 school districts consolidate after July 1, 2001 and ~~prior to~~ on or before July 1, 2007, the new
11 school district is entitled to an additional two hundred dollars per average daily membership as
12 defined in § 13-13-10.1, up to a maximum of four hundred average daily membership from each
13 school district or a prorated portion thereof from a partial school district as it existed prior to



1 consolidation for the second year after consolidation. If two or more school districts consolidate
2 after July 1, 2001 and ~~prior to~~ on or before July 1, 2007, the new school district is entitled to an
3 additional one hundred dollars per average daily membership as defined in § 13-13-10.1, up to
4 a maximum of four hundred average daily membership from each school district or a prorated
5 portion thereof from a partial school district as it existed prior to consolidation for the third year
6 after consolidation.

7 If two or more school districts consolidate after July 1, 2007, ~~the~~ for the first year after
8 consolidation, each new school district is entitled to ~~an additional six hundred nine hundred~~
9 ~~dollars per fall enrollment as defined in § 13-13-10.1, up to a maximum of four hundred fall~~
10 ~~enrollment from each school district or a prorated portion thereof from a partial school district~~
11 ~~as it existed prior to consolidation for the first year after consolidation~~ for each sending district
12 student included in the receiving district's fall enrollment for the first year after consolidation,
13 up to a maximum of four hundred sending district students. If two or more school districts
14 consolidate after July 1, 2007, ~~the~~ for the second year after consolidation, each new school
15 district is entitled to ~~an additional four hundred six hundred~~ six hundred dollars ~~per fall enrollment, up to~~
16 ~~a maximum of four hundred fall enrollment from each school district or a prorated portion~~
17 ~~thereof from a partial school district as it existed prior to consolidation for the second year after~~
18 ~~consolidation~~ for each sending district student included in the receiving district's fall enrollment
19 for the first year after consolidation, up to a maximum of four hundred sending district students.

20 If two or more school districts consolidate after July 1, 2007, ~~the~~ for the third year after
21 consolidation, each new school district is entitled to ~~an additional two hundred three hundred~~
22 ~~dollars per fall enrollment, up to a maximum of four hundred fall enrollment from each school~~
23 ~~district or a prorated portion thereof from a partial school district as it existed prior to~~
24 ~~consolidation for the third year after consolidation~~ for each sending district student included

1 in the receiving district's fall enrollment for the first year after consolidation, up to a maximum
2 of four hundred sending district students.

3 Section 2. For the purposes of this Act, the following terms mean:

4 (1) "New school district," a school district which is formed as the result of a
5 consolidation of two or more school districts;

6 (2) "Receiving district," a new school district in which a secondary attendance center was
7 operated prior to consolidation and is operated after consolidation;

8 (3) "Sending district," a school district which is not a receiving school district whose
9 land has become part of another school district; and

10 (4) "Sending district student," a student who was included in the current fall enrollment
11 as defined in § 13-13-10.1 of a sending school district for the school year prior to the
12 first year the new school district operates.

13 Section 3. That chapter 13-6 be amended by adding thereto a NEW SECTION to read as
14 follows:

15 Notwithstanding the provisions of § 13-6-92, if two or more school districts consolidate
16 after July 1, 2007, and the secretary of education has issued an order to give effect to the
17 reorganization plan pursuant to § 13-6-48 no later than July 1, 2008, the new school district is
18 entitled to an additional six hundred dollars per fall enrollment as defined in § 13-13-10.1, up
19 to a maximum of four hundred fall enrollment from each school district or a prorated portion
20 thereof from a partial school district as it existed prior to consolidation for the first year after
21 consolidation. If two or more school districts consolidate after July 1, 2007, and the secretary
22 of education has issued an order to give effect to the reorganization plan pursuant to § 13-6-48
23 no later than July 1, 2008, the new school district is entitled to an additional four hundred
24 dollars per fall enrollment, up to a maximum of four hundred fall enrollment from each school

1 district or a prorated portion thereof from a partial school district as it existed prior to
2 consolidation for the second year after consolidation. If two or more school districts consolidate
3 after July 1, 2007, and the secretary of education has issued an order to give effect to the
4 reorganization plan pursuant to § 13-6-48 no later than July 1, 2008, the new school district is
5 entitled to an additional two hundred dollars per fall enrollment, up to a maximum of four
6 hundred fall enrollment from each school district or a prorated portion thereof from a partial
7 school district as it existed prior to consolidation for the third year after consolidation.

8 Any school district that receives consolidation incentive payments pursuant to this section
9 may not receive consolidation incentive payments pursuant to § 13-6-92.

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

400P0385

HOUSE STATE AFFAIRS ENGROSSED NO. **SB 53** - 2/20/2008

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

1 FOR AN ACT ENTITLED, An Act to revise certain provisions related to capital punishment.

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

3 Section 1. That § 23A-27A-7 be amended to read as follows:

4 23A-27A-7. Upon a verdict or judgment of death made by a jury or a judge, ~~it shall be the~~
5 ~~duty of the judge presiding at the trial to~~ shall sentence ~~such~~ the convicted person to death and
6 ~~to make such~~ the sentence in writing, ~~which.~~ The judgment of death shall be filed with the
7 papers in the case against ~~such~~ the convicted person. ~~A certified copy thereof shall be sent by~~
8 ~~the clerk of the court in which the sentence is pronounced to the warden of the state penitentiary,~~
9 ~~not less than ten days prior to the time fixed in the sentence of the court for the execution of the~~
10 ~~sentence and certified copies provided to the Governor, the secretary of corrections, the sheriff~~
11 of the county where the crime was committed, and the warden.

12 Section 2. That § 23A-27A-15 be amended to read as follows:

13 23A-27A-15. ~~When~~ Whenever judgment of death is rendered, the judge ~~must forthwith~~ shall
14 also sign and deliver to provide to the Governor, the secretary of corrections, the sheriff of the



1 county where the crime was committed, and the warden a warrant of death sentence and
2 execution, along with a brief statement of the facts and circumstances of the case, duly attested
3 by the clerk under the seal of the court ~~stating~~. The warrant of death sentence and execution
4 shall describe the conviction and sentence and ~~appointing~~ appoint the week within which the
5 sentence ~~must~~ shall be executed. The warrant ~~must~~ of death sentence and execution shall be
6 directed to the warden of the state penitentiary at Sioux Falls, commanding the warden to
7 execute the sentence on some day within the week appointed.

8 Section 3. That § 23A-27A-16 be amended to read as follows:

9 23A-27A-16. Within ten days after the issuing of a warrant of death sentence and execution
10 under § 23A-27A-15, the sheriff ~~must~~ shall deliver the defendant together with certified copies
11 of the warrant of death sentence and execution and the judgment of conviction to the ~~warden~~
12 ~~or his deputies at the state penitentiary. From the time of delivery to the warden until the~~
13 ~~infliction of the punishment of death upon him, unless he is lawfully discharged from such~~
14 ~~imprisonment, the defendant shall be kept in solitary confinement at the penitentiary and no~~
15 ~~person shall be allowed access to him without an order of the trial court except the officers of~~
16 ~~the prison, his counsel, his physician, a priest or minister if he shall desire one, and the members~~
17 ~~of his family.~~

18 Section 4. That § 23A-27A-17 be amended to read as follows:

19 23A-27A-17. The week so appointed shall be not less than six months nor more than eight
20 months after the date of judgment of death. The time of execution within ~~such~~ the week shall
21 be left to the discretion of the warden to whom the warrant is directed, ~~who~~. The warden shall
22 cause the execution to be performed on some day of such week. Not less than forty-eight hours
23 prior to the execution, the warden shall make a public announcement of the scheduled day and
24 hour of the execution.

1 Section 5. That § 23A-27A-18 be repealed.

2 ~~23A-27A-18. The judge of any court imposing sentence of death shall immediately~~
3 ~~thereafter transmit by registered or certified mail to the Governor a certified copy of such~~
4 ~~judgment together with a brief statement of the facts and circumstances of the case over his~~
5 ~~signature.~~

6 Section 6. That § 23A-27A-19 be amended to read as follows:

7 23A-27A-19. The Governor may ~~thereupon~~ make such investigation of the case as ~~he~~ the
8 Governor may deem proper and may require the assistance of the attorney general.

9 Section 7. That § 23A-27A-20 be amended to read as follows:

10 23A-27A-20. The Governor ~~shall have power to~~ may relieve or suspend the execution of
11 the sentence for such reasonable time as ~~he~~ the Governor may see fit for the purpose of
12 completing ~~his~~ an investigation or other like proper purpose but the period of relieve or
13 suspension shall not in any event, exceed ninety days ~~except as provided in § 23A-27A-24 or~~
14 ~~23A-27A-28.~~

15 Section 8. That § 23A-27A-21 be amended to read as follows:

16 23A-27A-21. No judge, officer, commission, or board, other than the Governor, ~~can~~ may
17 relieve or suspend the execution of a judgment of death ~~except where.~~ However, the warden
18 or deputy warden of the penitentiary is authorized so to do in a case and in the manner
19 prescribed in this chapter or as provided in sections 15 and 20 of this Act. This section does not
20 apply to a stay of proceedings upon appeal or to the issuance of a writ of habeas corpus,
21 certiorari, or other original remedial writ of the Supreme Court.

22 Section 9. That § 23A-27A-22 be amended to read as follows:

23 23A-27A-22. If a defendant confined under sentence of death ~~appears~~ does not appear to be
24 mentally ~~incompetent~~ competent to ~~proceed~~ be executed, the warden having custody of the

1 defendant shall forthwith notify the Governor, who shall appoint a commission of not less than
2 three nor more than five disinterested duly licensed physicians, one of whom shall be the
3 medical director of the Human Services Center or the director's designee, to examine the
4 defendant and report to the Governor as to the defendant's mental condition at the time of the
5 examination the secretary of corrections, and the sentencing court.

6 Section 10. That chapter 23A-27A be amended by adding thereto a NEW SECTION to read
7 as follows:

8 If the warden notifies the sentencing court that a defendant under a sentence of death does
9 not appear to be mentally competent to be executed, or if the prosecuting attorney or the defense
10 attorney moves for a determination of whether the defendant is mentally competent to be
11 executed, and the sentencing court determines that there is a substantial threshold showing of
12 incompetence to be executed, the sentencing court shall conduct hearings and order mental
13 examinations pursuant to this section and sections 11, 12, 13, and 14 of this Act. Prior to the
14 date of the hearing, the court may order that a psychiatric examination of the defendant be
15 conducted pursuant to section 11 of this Act, and that a psychiatric report be filed with the court,
16 pursuant to section 12 of this Act. The state has the burden of proving the mental competence
17 of the defendant by a preponderance of the evidence. A defendant is mentally competent to be
18 executed if the defendant is aware of the impending execution and the reason for it. If the
19 defendant has previously been determined to be competent to be executed under this Act and
20 there is a subsequent motion to the sentencing court that the defendant no longer appears to be
21 mentally competent to be executed, there shall be a prima facie showing of a substantial change
22 in circumstances raising a significant question of the defendant's competence to be executed
23 before the sentencing court conducts any further hearing.

24 Section 11. That chapter 23A-27A be amended by adding thereto a NEW SECTION to read

1 as follows:

2 Any psychiatric examination ordered pursuant to section 10 of this Act shall be conducted
3 by a licensed or certified psychiatrist, or, if the court finds it appropriate, by more than one such
4 psychiatrist. Each psychiatrist shall be designated by the court. For the purposes of a psychiatric
5 examination ordered pursuant to section 10 of this Act, the defendant shall remain confined
6 under the physical custody of the Department of Corrections.

7 Section 12. That chapter 23A-27A be amended by adding thereto a NEW SECTION to read
8 as follows:

9 Any psychiatric report ordered pursuant to section 10 of this Act shall be prepared by the
10 psychiatrist designated to conduct the psychiatric examination, shall be filed with the court with
11 copies provided to the counsel for the defendant and to the prosecuting attorney, and shall
12 include:

- 13 (1) The defendant's history and present symptoms;
- 14 (2) A description of the psychiatric, psychological, and medical tests that were employed
15 and their results; and
- 16 (3) The psychiatrist's determination whether the defendant is mentally competent to be
17 executed as defined in section 10 of this Act.

18 Section 13. That chapter 23A-27A be amended by adding thereto a NEW SECTION to read
19 as follows:

20 Upon written request of defense counsel, the court may order a video tape record made of
21 the defendant's psychiatric examination conducted pursuant to section 10 of this Act. Either the
22 prosecuting attorney or the defendant's counsel may request a copy of the video tape record. The
23 video tape record shall be submitted to the court along with the psychiatric report, pursuant to
24 section 12 of this Act.

1 Section 14. That chapter 23A-27A be amended by adding thereto a NEW SECTION to read
2 as follows:

3 At any hearing ordered pursuant to section 10 of this Act, the defendant shall be represented
4 by counsel and, if financially unable to obtain adequate representation, counsel shall be
5 appointed for the defendant. The defendant shall be afforded an opportunity to testify, to present
6 evidence, to subpoena witnesses on the defendant's behalf, and to confront and cross-examine
7 witnesses who appear at the hearing.

8 Section 15. That § 23A-27A-24 be amended to read as follows:

9 23A-27A-24. If the ~~commission~~ sentencing court finds the defendant is not mentally
10 ~~incompetent competent to proceed be executed~~ the Governor sentencing court shall suspend the
11 execution of sentence ~~and may in his discretion order the defendant removed to the Human~~
12 ~~Services Center, there to remain confined until he~~ the defendant is ~~no longer~~ mentally ~~ill~~
13 competent to be executed. The defendant shall remain confined under the physical custody of
14 the Department of Corrections. The ~~commission~~ sentencing court shall review the defendant's
15 mental condition at least once every six months during ~~his confinement~~ the period that the
16 execution of sentence is suspended.

17 Section 16. That § 23A-27A-26 be amended to read as follows:

18 23A-27A-26. ~~The Governor, upon receiving the certificate provided for in § 23A-27A-25,~~
19 ~~that states~~ If the sentencing court determines the defendant is mentally competent to be
20 executed, the sentencing court shall certify the fact to the Governor, the secretary of corrections,
21 and the warden having custody of the defendant. The sentencing court, upon determination the
22 defendant is no longer mentally incompetent competent to proceed, must be executed, shall
23 issue his a warrant of death sentence and execution appointing a week beginning within a period
24 of not less than thirty nor more than ninety days from the date of the warrant, for the execution

1 of the defendant pursuant to ~~his~~ the defendant's sentence unless the sentence has been commuted
2 or the defendant pardoned. ~~The defendant shall continue in or be returned to the custody of the~~
3 ~~warden of the state penitentiary accordingly.~~ In no case may the appointed week of execution
4 be sooner than the week appointed by the sentencing court pursuant to § 23A-27A-15.

5 Section 17. That § 23A-27A-23 be repealed.

6 ~~—23A-27A-23. The commission appointed pursuant to § 23A-27A-22 must summarily~~
7 ~~proceed to make the examination. Before commencing they must take the oath required of~~
8 ~~referees as prescribed by the Supreme Court rule for trial courts of record. They shall give at~~
9 ~~least seven days' notice of the time of such examination to the attorney general and to the state's~~
10 ~~attorney who tried or participated in the trial of the defendant and to counsel for the defendant.~~
11 ~~Either the attorney general or one of his assistants or the state's attorney or a deputy shall, and~~
12 ~~counsel for defendant may, attend the examination and any of the attorneys may take part in the~~
13 ~~proceedings before the commission. The commission shall have power to call and examine~~
14 ~~witnesses, administer oaths, and compel the attendance of witnesses. When the commission has~~
15 ~~concluded its examination it must forthwith report in writing to the Governor, setting forth the~~
16 ~~facts found together with the opinion of the commission as to the mental condition of the~~
17 ~~defendant.~~

18 Section 18. That § 23A-27A-25 be repealed.

19 ~~—23A-27A-25. When the commission determines that the defendant is no longer mentally~~
20 ~~incompetent to proceed, it shall report the fact to the Governor and to the Chief Justice of the~~
21 ~~Supreme Court. The Chief Justice shall thereupon inquire into the truth of the report in such~~
22 ~~manner as he may deem proper and if the justice upholds the commission's report, he shall so~~
23 ~~certify to the Governor and to the clerk of the court in which the defendant was convicted.~~
24 ~~Thereupon the defendant shall be forthwith returned and delivered to the custody of the warden~~

1 ~~of the state penitentiary, there to be dealt with according to law.~~

2 Section 19. That § 23A-27A-27 be amended to read as follows:

3 23A-27A-27. If there is reasonable ground to believe that a female defendant sentenced to
4 death is pregnant, the warden having her in custody shall ~~summon three disinterested licensed~~
5 ~~physicians of this state to examine~~ arrange for an examination of the defendant ~~and inquire into~~
6 to determine her condition. ~~The physicians upon completing~~ Upon the completion of the
7 examination, the warden shall make a report in writing over ~~their signatures~~ the warden's
8 signature, stating the facts, and submit the ~~same report~~ to the warden secretary of corrections,
9 the sentencing court, and the Governor.

10 Section 20. That § 23A-27A-28 be amended to read as follows:

11 23A-27A-28. If the ~~physicians summoned~~ examination under § 23A-27A-27 ~~find~~ finds that
12 the defendant is pregnant the execution of the sentence ~~must~~ shall be suspended by the
13 sentencing court. ~~The warden shall forthwith transmit the report of the physicians to the~~
14 ~~Governor and the defendant shall~~ may not be executed until a new warrant of death sentence and
15 execution is received from the ~~Governor~~ sentencing court so directing.

16 Section 21. That § 23A-27A-29 be amended to read as follows:

17 23A-27A-29. ~~In case~~ If the execution of a sentence is suspended pursuant to § 23A-27A-28,
18 as soon as the Governor, as soon as he sentencing court is satisfied ~~that~~ the defendant is no longer
19 pregnant, the sentencing court shall forthwith issue his a warrant of death sentence and execution
20 appointing a week for her execution, pursuant to her sentence, beginning. The week for the
21 execution shall be within a period of not less than thirty nor more than ninety days from the date
22 of the warrant of death sentence and execution. In no case may the appointed week of execution
23 be sooner than the week appointed by the sentencing court pursuant to § 23A-27A-15.

24 Section 22. That § 23A-27A-30 be repealed.

1 ~~23A-27A-30. If the physicians summoned pursuant to § 23A-27A-27 report that the female~~
2 ~~defendant is not pregnant a copy of the report shall be transmitted by the warden to the Governor~~
3 ~~but the same shall not work a stay or suspension of the execution of the sentence.~~

4 Section 23. That § 23A-27A-31 be amended to read as follows:

5 23A-27A-31. If the time period for the execution of any ~~convicted person~~ defendant in a
6 capital case has passed by reason of a stay of proceedings incident to appellate review or by
7 reason of the issuance of a writ of habeas corpus, certiorari, or other original remedial writ of the
8 Supreme Court, or for any other reason, ~~a judge of the circuit~~ the sentencing court shall issue a
9 warrant of death sentence and execution in accordance with § 23A-27A-15 appointing a new
10 ~~time period~~ week for the execution of the original sentence without requiring the ~~convicted~~
11 ~~person~~ defendant to be brought before the sentencing court. Upon its issuance, the clerk of the
12 court in which the sentence was pronounced shall immediately send a certified copy of the
13 warrant of death sentence and execution to all attorneys of record, to the warden ~~of the state~~
14 ~~penitentiary~~ having custody of the defendant, to the secretary of corrections, and to the Governor.
15 The warden shall execute the warrant of death sentence and execution accordingly. This
16 procedure applies to any case in which the time period for carrying out the original warrant of
17 death sentence and execution has elapsed without regard to whether the original warrant was
18 issued prior or subsequent to July 1, 1998.

19 Section 24. That chapter 23A-27A be amended by adding thereto a NEW SECTION to read
20 as follows:

21 From the time of delivery to the penitentiary until the infliction of the punishment of death
22 upon the defendant, unless lawfully discharged from such imprisonment, the defendant shall be
23 segregated from other inmates at the penitentiary. No other person may be allowed access to the
24 defendant without an order of the trial court except penitentiary staff, Department of Corrections

1 staff, the defendant's counsel, members of the clergy if requested by the defendant, and members
2 of the defendant's family. Members of the clergy and members of the defendant's family are
3 subject to approval by the warden before being allowed access to the defendant.

4 Section 25. That chapter 23A-27A be amended by adding thereto a NEW SECTION to read
5 as follows:

6 The name, address, qualifications, and other identifying information relating to the identity
7 of any person administering the intravenous injection under chapter 23A-27A are confidential.
8 Disclosure of the foregoing information may not be authorized or ordered. Disclosure of
9 confidential information pursuant to this section concerning the execution of an inmate under
10 chapter 23A-27A is a Class 2 misdemeanor.

11 Section 26. That § 23A-27A-32 be amended to read as follows:

12 23A-27A-32. The punishment of death shall be inflicted within the walls of some building
13 at the state penitentiary. The punishment of death shall be inflicted by the intravenous injection
14 of a substance or substances in a lethal quantity. The warden, subject to the approval of the
15 secretary of corrections, shall determine the substances and the quantity of substances used for
16 the punishment of death. An execution carried out by intravenous injection shall be performed
17 by ~~a person~~ persons trained to administer the injection who ~~is~~ are selected by the warden and
18 approved by the secretary of corrections. The ~~person~~ persons administering the intravenous
19 injection need not be a ~~physician~~ physicians, registered ~~nurse~~ nurses, licensed practical ~~nurse~~
20 nurses, or other medical ~~professional~~ professionals licensed or registered under the laws of this
21 or any other state. Any infliction of the punishment of death by intravenous injection of a
22 substance or substances in the manner required by this section may not be construed to be the
23 practice of medicine. Any pharmacist or pharmaceutical supplier is authorized to dispense to the
24 warden the substance or substances used to inflict the punishment of death ~~to the warden~~ without

1 prescription, for carrying out the provisions of this section, notwithstanding any other provision
2 of law.

3 Section 27. That § 23A-27A-34 be amended to read as follows:

4 23A-27A-34. The warden of the penitentiary shall request, by at least two days' previous
5 notice, the presence of the attorney general, the trial judge before whom the conviction was had
6 or the judge's successor in office, the state's attorney and sheriff of the county where the crime
7 was committed, ~~and not more than ten reputable adult citizens, including~~ representatives of the
8 victim, at least one member of the news media, ~~to be selected by the warden at the execution. The~~
9 ~~warden shall arrange for the attendance of any prison guards and law enforcement officers the~~
10 ~~warden deems proper and a number of reputable adult citizens to be determined by the warden.~~
11 All witnesses and persons present at an execution are subject to approval by the warden.

12 Section 28. That § 23A-27A-35 be repealed.

13 ~~23A-27A-35. The warden of the state penitentiary must also, at the request of the defendant,~~
14 ~~permit such ministers of the gospel, priests, or clergymen of any denomination as the defendant~~
15 ~~may desire, not exceeding two, to be present at the execution and any relatives or friends~~
16 ~~requested by the defendant not exceeding five.~~

17 Section 29. That chapter 23A-27A be amended by adding thereto a NEW SECTION to read
18 as follows:

19 The warden shall arrange for the attendance of a person trained to examine the defendant and
20 pronounce death and for the attendance of such penitentiary staff, Department of Corrections
21 staff, and law enforcement officers as deemed necessary to perform the execution and maintain
22 security.

23 Section 30. That chapter 23A-27A be amended by adding thereto a NEW SECTION to read
24 as follows:

1 The defendant is permitted to have up to five witnesses present at the execution. Witnesses
2 for the defendant may include counsel, members of the clergy, relatives, or friends.

3 Section 31. That § 23A-27A-36 be amended to read as follows:

4 23A-27A-36. The warden of the state penitentiary shall may not permit no persons any person
5 to be present at ~~such the~~ execution other than those designated in §§ 23A-27A-32, 23A-27A-34
6 and ~~23A-27A-35~~ sections 29 and 30 of this Act and shall may not permit the presence of any
7 person under the age of eighteen years, ~~unless a relative, and no relatives of tender years shall be~~
8 admitted.

9 Section 32. That § 23A-27A-37 be amended to read as follows:

10 23A-27A-37. ~~The~~ Prior to the announcement required in § 23A-27A-17, the scheduled day
11 and time fixed by the warden for the execution shall be kept secret and in no manner divulged
12 except privately to the persons ~~by him~~ invited or requested to be present as provided by §§ 23A-
13 27A-32, 23A-27A-34 and 23A-27A-35 sections 29 and 30 of this Act. It is a Class 2
14 misdemeanor for ~~such persons so invited or requested to be present~~ any person to divulge such
15 invitation to ~~any person or persons nor anyone or~~ anyone or in any manner disclose the scheduled day and
16 time of the execution prior to the announcement required in § 23A-27A-17.

17 Section 33. That § 23A-27A-41 be repealed.

18 ~~23A-27A-41. In case of the disability from illness or other sufficient cause of the warden to~~
19 ~~whom the death warrant is directed to be present and execute the same, it shall be the duty of the~~
20 ~~principal deputy warden or such other officer of the prison as may be designated by the warden~~
21 ~~to execute the warrant and to perform all other duties imposed upon the warden by this chapter.~~

22 Section 34. That chapter 23A-27A be amended by adding thereto a NEW SECTION to read
23 as follows:

24 In case of disability of the warden to whom the warrant of death sentence and execution is

1 directed, the secretary of corrections shall appoint the deputy warden or such other officer of the
2 Department of Corrections as may be necessary to carry out the warrant of death sentence and
3 execution and to perform all other duties imposed upon the warden by this chapter.

4 Section 35. That chapter 23A-27A be amended by adding thereto a NEW SECTION to read
5 as follows:

6 After the execution, the county coroner shall conduct a postmortem examination of the body
7 of the defendant. The county coroner shall report in writing the result of the examination, stating
8 the nature thereof and the finding made. The report shall be annexed to the certificate of
9 execution mentioned in section 39 of this Act and filed therewith.

10 Section 36. That chapter 23A-27A be amended by adding thereto a NEW SECTION to read
11 as follows:

12 Following the death of the defendant by execution, the body may be subject to an autopsy
13 pursuant to § 24-1-27 and chapter 23-14. Any final autopsy report shall be annexed to and filed
14 with the certificate of execution mentioned in section 39 of this Act.

15 Section 37. That § 23A-27A-39 be amended to read as follows:

16 23A-27A-39. The After the postmortem examination and any autopsy, the body of the
17 defendant, unless claimed by some relative, shall be interred in a cemetery within the county
18 where the penitentiary is situated.

19 Section 38. That § 23A-27A-40 be repealed.

20 ~~23A-27A-40. The warden or prison officer attending the execution and in charge of the~~
21 ~~execution shall immediately prepare and sign a certificate and return setting forth the time, place,~~
22 ~~and manner of the execution, and that the defendant was executed in conformity to the judgment~~
23 ~~of the court and the provisions of this chapter. The warden or prison officer shall sign the~~
24 ~~certificate and return and shall also procure the same to be signed by all the persons present and~~

1 ~~witnessing the execution and shall file the certificate within ten days after the execution in the~~
2 ~~office of the clerk of the court where the trial and conviction of the defendant took place.~~

3 Section 39. That chapter 23A-27A be amended by adding thereto a NEW SECTION to read
4 as follows:

5 The warden or corrections official attending and in charge of the execution shall prepare and
6 sign a certificate of execution setting forth the date, time, place, and manner of execution, and
7 that the defendant was executed in conformity to the judgment of the court and the provisions
8 of this chapter. The certificate of execution document shall be signed by each of the witnesses
9 of the execution attending as allowed in § 23A-27A-34 and section 30 of this Act. The warden
10 or corrections official shall cause the certificate of execution to be filed in the office of the clerk
11 of the sentencing court within ten days after the execution. The original or a certified copy of the
12 death certificate, postmortem examination, and any autopsy report shall be filed with the clerk
13 of the sentencing court within ten days of receipt by the warden or corrections official.

14 Section 40. That chapter 23A-27A be amended by adding thereto a NEW SECTION to read
15 as follows:

16 Any person or party participating in good faith in the execution of an inmate under this
17 chapter is immune from any liability, civil or criminal, that might otherwise be incurred or
18 imposed, and has the same immunity for participation in any judicial proceeding resulting from
19 the execution. Immunity also extends in the same manner to any persons who in good faith
20 cooperate in the execution of an inmate under this chapter.

21 Section 41. That chapter 19-13 be amended by adding thereto a NEW SECTION to read as
22 follows:

23 The secretary of corrections, the warden of the penitentiary, penitentiary staff, and
24 Department of Corrections staff may not be examined as to communications made to them

1 concerning an execution of an inmate under chapter 23A-27A. The privilege described in this
2 section may be claimed by the secretary of corrections, the warden of the penitentiary,
3 penitentiary staff, Department of Corrections staff, or by any representative of any of the
4 foregoing to be examined and is binding on all of them. However, the secretary of corrections
5 and the warden of the penitentiary may personally waive the privilege described in this section.

6 Section 42. That chapter 23A-27A be amended by adding thereto a NEW SECTION to read
7 as follows:

8 As to any defendant who has been sentenced to death and who is awaiting execution prior
9 to July 1, 2008, the amendment and repeal of existing sections and enactment of new sections
10 in this Act do not impair or affect any act done, offense committed, or right accruing, accrued,
11 or acquired, or liability, penalty, forfeiture, or punishment incurred prior to July 1, 2008.
12 However, the provisions of existing statute may be asserted, enforced, prosecuted, or inflicted,
13 as fully and to the same extent as if the amendment and repeal of existing sections and enactment
14 of new sections in this Act had not been subsequently enacted.

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

936P0694

HOUSE AGRICULTURE AND NATURAL RESOURCES

ENGROSSED NO. **SB 162** - 2/19/2008

Introduced by: Senators Lintz, Hanson (Gary), and Heidepriem and Representatives
Pederson (Gordon), Brunner, Dykstra, Hargens, Howie, and Olson (Betty)

1 FOR AN ACT ENTITLED, An Act to revise certain provisions related to the confidentiality of
2 certain geological reports.

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

4 Section 1. That chapter 45-6C be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Any written geologic report, aquifer penetration report, map, test hole log, or other
7 information relative to the geologic data, size, extent, or economic value of a mineral deposit
8 filed with the state by a person who conducted a mineral exploration operation which was
9 initiated or permitted before July 1, 1982, is confidential for a period of six months following
10 the effective date of this Act. Any person who filed such reports or information may request the
11 secretary of environment and natural resources, in writing, to extend the six month confidentiality
12 period by up to five years. The information becomes public following the confidentiality period.

13 Section 2. That chapter 45-6D be amended by adding thereto a NEW SECTION to read as
14 follows:



1 Any written geologic report, aquifer penetration report, map, test hole log, or other
2 information relative to the geologic data, size, extent, or economic value of a mineral deposit
3 filed with the state by a person who conducted a mineral exploration operation which was
4 initiated or permitted before July 1, 1982, is confidential for a period of six months following the
5 effective date of this Act. Any person who filed such reports or information may request the
6 secretary of environment and natural resources, in writing, to extend the six month confidentiality
7 period by up to five years. The information becomes public following the confidentiality period.

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

795P0654

HOUSE ENGROSSED NO. **SB 176** - 2/25/2008

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

1 FOR AN ACT ENTITLED, An Act to authorize the Legislative Research Council to remodel,
2 renovate, and furnish certain facilities on the fourth floor of the State Capitol Building for
3 use by the Legislature, to make an appropriation therefor, and to declare an emergency.

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

5 Section 1. The Legislative Research Council may contract for the design, construction,
6 completion, furnishing, equipping, and maintaining of, including heating, air conditioning,
7 plumbing, water, sewer, electric facilities, architectural and engineering services, asbestos
8 abatement, computer and presentation systems, video studio facilities, programming, and such
9 other services as may be required to remodel for legislative use available space on the fourth



1 floor of the Capitol building in a manner consistent with a twenty-first century society and the
2 current state of technology at an estimated cost of ninety-nine thousand nine hundred ninety-nine
3 dollars to complete.

4 Section 2. There is hereby appropriated from the public buildings fund the sum of one dollar
5 (\$1), or so much thereof as may be necessary, to the Legislative Research Council to complete
6 renovation, construction, and completion of the facilities described in section 1 of this Act.

7 Section 3. The design, renovation, and construction of the facilities approved by this Act shall
8 be under the general supervision of the Bureau of Administration as provided in § 5-14-2. The
9 commissioner of the Bureau of Administration and the executive director of the Legislative
10 Research Council shall approve vouchers and the state auditor shall draw warrants to pay
11 expenditures authorized by this Act.

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

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

400P0691

HOUSE ENGROSSED NO. **SB 180** - 2/25/2008

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 provide certain refunds of sales
2 tax on food.

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

4 Section 1. There is hereby appropriated from the general fund the sum of one million one
5 hundred seventy-three thousand four hundred thirty dollars (\$1,173,430), or so much thereof as
6 may be necessary, and three hundred seventy-five thousand four hundred ninety-eight dollars
7 (\$375,498) of other fund expenditure authority, or so much thereof as may be necessary, to the
8 Department of Social Services to provide refunds of sales tax on food for South Dakota families
9 who need it most pursuant to chapter 28-1.

10 Section 2. The secretary of the Department of Social Services shall approve vouchers and the
11 state 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.



State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

400P0686

HOUSE ENGROSSED NO. **SB 188** - 2/25/2008

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

1 FOR AN ACT ENTITLED, An Act to establish high performance building design and
2 construction standards for newly constructed or renovated state-owned buildings.

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

4 Section 1. Terms used in this Act mean:

5 (1) "High-performance green building standard," a building that is designed and
6 constructed in a manner that achieves at least:

7 (a) A silver standard rating under the United States Green Building Council's
8 Leadership in Energy and Environmental Design (LEED) rating system as of
9 January 1, 2008;

10 (b) A two globe rating under the Green Building Initiative's Green Globes rating
11 system as of January 1, 2008; or

12 (c) A comparable numeric rating under a sustainable building certification program
13 recognized by the American National Standards Institute as an accredited
14 standards developer;

15 (2) "New construction," any new building constructed by any state agency, department,



1 or institution which has a cost of five hundred thousand dollars or more or that
2 includes five thousand square feet or more of space;

3 (3) "Renovation" or "renovated," any alteration of a state building with a cost of five
4 hundred thousand dollars or more or that includes five thousand square feet or more
5 of the building;

6 (4) "State building project," new construction or renovation of a building, which has
7 heating, ventilation, or air conditioning, by the Board of Regents or any state agency,
8 department, or institution.

9 Section 2. Any state building projects as defined in section 1 of this Act, shall meet or exceed
10 a high-performance green building standard.

11 Section 3. A waiver of the requirements of section 2 of this Act may be granted by the Office
12 of the State Engineer if:

13 (1) The building will have minimal human occupancy;

14 (2) The increased costs of achieving a high-performance green building standard cannot
15 be recouped from decreased operational costs within fifteen years;

16 (3) A building is on the national register of historic places and achieving a high-
17 performance green building standard would result in noncompliance with standards
18 for historic preservation as set forth in the secretary of the interior's Standards for the
19 Treatment of Historic Properties in effect as of January 1, 2008;

20 (4) The square footage of the renovation project is less than fifty percent of the total
21 square footage of the building being renovated. If the renovation project is being done
22 in phases, the total square footage of all intended phases combined shall be used in
23 making this calculation; or

24 (5) The Bureau of Administration determines that extenuating circumstances exist to

1 make impractical high-performance green building standard certification.

2 Section 4. No state building project may proceed to construction until the Bureau of
3 Administration has determined that the project is satisfactorily designed to achieve or exceed a
4 high-performance green building standard or that a waiver is granted pursuant to this Act.

5 Section 5. Upon completion of a state building project, the Bureau of Administration shall
6 certify:

7 (1) That the project achieved a high-performance green building standard;

8 (2) That a waiver was granted pursuant to this Act; or

9 (3) That the project failed to comply with the provisions of this Act.

10 Section 6. The Bureau of Administration shall annually report to the Legislature a listing of
11 any state building project which was granted a waiver or failed to comply with the provisions of
12 this Act.

13 Section 7. The Bureau of Administration shall promulgate rules pursuant to chapter 1-26
14 establishing the procedures and terms and conditions for certifying a project and granting waivers
15 and the method for calculating the initial costs and the decreased operational costs related to
16 achieving high-performance green building standards.

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

777P0633

HOUSE ENGROSSED NO. **SB 192** - 2/25/2008

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

Introduced by: Senators Gray, Garnos, and Olson (Ed) and Representatives Rounds, Ahlers, Boomgarden, Brunner, Faehn, Gilson, Gosch, Hackl, Hills, Juhnke, Lucas, Lust, McLaughlin, Olson (Ryan), and Van Norman

1 FOR AN ACT ENTITLED, An Act to authorize the Board of Regents to lease a site for delivery
2 of public higher education in Pierre and to use money appropriated by the Legislature from
3 the higher education facilities fund to make lease payments therefor.

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

5 Section 1. That § 13-51-1.1 be amended to read as follows:

6 13-51-1.1. Notwithstanding any other provisions of law, the Board of Regents may enter into
7 a lease agreement with the Sioux Falls public school district for the lease of a site to be used only
8 for the delivery of public higher education programs and a lease agreement with the Capital
9 University Center Foundation and Advisory Board for the lease of a site in Pierre, South Dakota,
10 to be used for the delivery of public higher education programs. All such academic programs
11 shall be directly provided by the following institutions:

- 12 (1) University of South Dakota;
- 13 (2) South Dakota State University;
- 14 (3) South Dakota School of Mines and Technology;



- 1 (4) Northern State University;
- 2 (5) Black Hills State University; or
- 3 (6) Dakota State University.

4 No postsecondary degrees may be awarded or conferred except by the above institutions.

5 The board may use funds annually appropriated by the Legislature from the higher education
6 facilities fund, created in § 13-51-2, to make payments therefor.

7 Section 2. All courses offered at off-campus locations will be at self-support tuition rates
8 established by the Board of Regents, with the exception of nursing courses offered at the Pierre
9 site through the University of South Dakota and South Dakota State University, which can be
10 offered at state-support rates if authorized by the board.