

State of South Dakota

EIGHTY-FIFTH SESSION LEGISLATIVE ASSEMBLY, 2010

707R0007

HOUSE BILL NO. _____

Introduced by: _____

1 FOR AN ACT ENTITLED, An Act to clarify, repeal, update, and make form and style revisions
2 to certain statutes related to the Department of Transportation.

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

4 Section 1. That § 1-44-4 be amended to read as follows:

5 1-44-4. ~~The State Transportation Commission, formerly designated the Board of~~
6 ~~Transportation, is abolished.~~ There is created the Transportation Commission within the
7 Department of Transportation. The Transportation Commission ~~shall consist~~ consists of nine
8 members. ~~Eight of the members shall be appointed by the Governor and the ninth member shall~~
9 ~~be appointed by the Governor from area 3 as defined in § 1-44-5. His term shall be for four~~
10 ~~years and begin on April 19, 1987, and expire on April 18, 1999. The Governor shall appoint~~
11 ~~the members.~~ All members ~~shall be~~ are full voting members of the commission. Not all
12 members of the commission may be from the same political party. No two ~~appointive~~ members
13 may at the same time be a resident of the same county.

14 Section 2. That § 1-44-6 be amended to read as follows:

15 1-44-6. Terms of members of the Transportation Commission ~~shall be~~ are four years. ~~The~~
16 ~~terms of members of the Transportation Commission who are first appointed after April 18,~~



1 1983, shall be: two appointed for a term of one year; two appointed for a term of two years; two
2 appointed for a term of three years; and two appointed for a term of four years, and such initial
3 terms shall be designated by the Governor. Any member appointed to fill a vacancy arising from
4 other than the natural expiration of a term shall serve for only the unexpired portion of the term.

5 Section 3. That § 1-44-7 be amended to read as follows:

6 1-44-7. The Transportation Commission shall annually elect from its members such officers
7 as it deems advisable. A majority of the commission members ~~shall~~ constitute a quorum. The
8 commission shall exercise such functions as are ~~transferred to it~~ provided by this chapter and
9 such other functions as may be assigned to it by law. The commission shall hold meetings at the
10 call of the ~~chairman~~ chair or a majority of the members.

11 Section 4. That § 1-44-7.1 be repealed.

12 ~~— 1-44-7.1. The Transportation Commission shall perform all statutory and other functions of~~
13 ~~the former State Transportation Commission including all quasi-legislative, quasi-judicial,~~
14 ~~advisory, and special budgetary functions as defined by law.~~

15 Section 5. That § 1-44-8 be amended to read as follows:

16 1-44-8. Notwithstanding other provisions of this title, the Transportation Commission ~~shall;~~
17 ~~subject to the limitations provided herein and by law, have~~ has final authority within the
18 Department of Transportation over the allocation of all funds for the construction of
19 transportation facilities.

20 Section 6. That § 1-44-13 be repealed.

21 ~~— 1-44-13. The Department of Transportation shall, under the direction and control of the~~
22 ~~secretary of transportation, perform all the functions of the former Department of Highways~~
23 ~~created by chapter 31-2, subject to such changes as specified in §§ 1-44-14 and 1-44-16.~~

24 Section 7. That § 1-44-14 be repealed.

~~1-44-14. The Department of Transportation shall, under the direction and control of the secretary of transportation, perform all the functions of the former State Highway Commission created by chapter 31-2, except that the Transportation Commission shall perform the other quasi-legislative, quasi-judicial, advisory, and special budgetary functions (as defined in § 1-32-1) of the State Highway Commission.~~

Section 8. That § 1-44-14.1 be repealed.

~~1-44-14.1. The functions exercised by the accident record program pursuant to chapters 32-12 and 32-34 are transferred from the Department of Commerce and Regulation to the Department of Transportation.~~

~~The functions exercised by the secretary of commerce and regulation pursuant to chapters 32-12 and 32-34 are transferred to the secretary of transportation.~~

Section 9. That § 1-44-25 be amended to read as follows:

1-44-25. The South Dakota State Railroad Board is created. The board ~~shall consist~~ consists of seven members to be appointed by the Governor. Members shall serve a four-year term. No more than five members may be of the same political party. ~~The terms of members of the South Dakota State Railroad Board who are first appointed after March 13, 1980, shall be: two appointed for a term of one year; two appointed for a term of two years; two for a term of three years; and one for a term of four years, and such initial terms shall be designated by the Governor.~~ Any member appointed to fill a vacancy arising from other than the natural expiration of a term shall serve only for the unexpired term, but may be reappointed to a full term. The board shall annually choose from its membership a chairman chair, a ~~vice-chairman~~ vice-chair, and a secretary-treasurer. No member may be removed from office except for cause.

Section 10. That § 31-1-1 be amended to read as follows:

31-1-1. Every way or place of whatever nature open to the public, as a matter of right, for

1 purposes of vehicular travel, is a highway. The term "~~highway~~" ~~shall not be deemed to, highway,~~
2 does not include a roadway or driveway upon grounds owned by private persons, colleges,
3 universities, or other institutions, but such term ~~may be deemed to include~~ includes a roadway
4 or driveway upon grounds owned by any state agency, college, university, or institution if the
5 governing agency, board, or commission by resolution so determines and the Department of
6 Transportation concurs ~~therein~~.

7 Section 11. That § 31-1-2 be amended to read as follows:

8 31-1-2. Bridges and culverts erected or maintained by the public constitute a part of the
9 public highway. The word, road or highway, whenever used in this title ~~shall be construed to~~
10 ~~include bridges~~ includes any bridge upon or which form a part of the road or highway
11 constructed, maintained, or to be improved; also ~~subways~~ any subway or ~~underpasses~~ underpass
12 and any overhead crossings crossing.

13 Section 12. That § 31-2-8 be repealed.

14 ~~— 31-2-8. The state highway engineer and his assistants shall be provided with suitable offices~~
15 ~~and drafting rooms.~~

16 Section 13. That § 31-2-18 be amended to read as follows:

17 31-2-18. The Department of Transportation ~~is hereby authorized to~~ may contract for the
18 services of ~~mentally retarded persons~~ any person with a developmental disability as defined in
19 chapter 27B-1, for the performance of any work under the supervision and control of ~~said the~~
20 department, without competitive bids, ~~whenever~~ if the department ~~shall determine~~ determines
21 that ~~any such the~~ work can be performed by ~~said mentally retarded persons~~ the person with a
22 developmental disability at a cost substantially equal to the ordinary cost ~~thereof~~.

23 Section 14. That § 31-2-39 be amended to read as follows:

24 31-2-39. No execution ~~shall~~ may issue against the state on any final judgment obtained

1 under the provisions of this chapter; ~~but whenever.~~ However, if final judgment against the state
2 ~~shall have~~ has been obtained in any such action as ~~herein~~ provided by this chapter, the clerk of
3 the court, wherein the final judgment was obtained, shall forthwith; send a certified copy of ~~said~~
4 the judgment by registered or certified mail to the secretary of transportation, and to the state
5 auditor, ~~and the.~~ The auditor shall ~~thereupon~~ audit the amount of damages and costs therein
6 finally awarded, ~~and the same shall be paid.~~ The state treasurer shall pay the damages and costs
7 out of the state highway fund ~~by the state treasurer.~~

8 Section 15. That § 31-4-2 be repealed.

9 ~~— 31-4-2. All rights-of-way of the state trunk highway system, together with all appurtenance~~
10 ~~thereto, the right or interest in or to which was or is in any county shall be and the same are~~
11 ~~hereby transferred to and vested in the State of South Dakota for highway purposes.~~

12 Section 16. That § 31-4-5 be amended to read as follows:

13 31-4-5. ~~Whenever~~ If any state trunk highway ~~shall include the~~ includes a connecting street
14 ~~or streets~~ within a municipality over twenty-five hundred population, the Department of
15 Transportation shall ~~be charged with the maintenance of such streets but~~ maintain the street.
16 However, the snow removal from ~~same shall be~~ the street is the duty of the first or second class
17 municipality within whose boundaries ~~they lie~~ the street lies.

18 Section 17. That § 31-4-6 be amended to read as follows:

19 31-4-6. No change ~~shall~~ may be made so that the state trunk highway system ~~shall cease~~
20 ceases to interconnect every county seat or to connect every first or second class municipality
21 having a population of twenty-five hundred or more by the last federal census.

22 Section 18. That § 31-4-8 be amended to read as follows:

23 31-4-8. The ~~Department of Transportation is hereby authorized to~~ department may reroute
24 portions of the state trunk highway system onto the national system of interstate highways. The

1 department is ~~authorized to~~ may delete portions of the state trunk highway system ~~where same~~
2 if they have been rerouted onto the national system of interstate highways where feasible and
3 in the best interest of the State of South Dakota.

4 Section 19. That § 31-4-9 be repealed.

5 ~~— 31-4-9. The Department of Transportation of the State of South Dakota is hereby authorized~~
6 ~~and empowered to enter into contracts with the United States of America fixing the terms and~~
7 ~~conditions under which that part of the state trunk highway system which it is found necessary~~
8 ~~to relocate, rearrange, or alter in order to facilitate the construction of the dams and reservoirs,~~
9 ~~within the State of South Dakota, by the United States government in the development of the~~
10 ~~Missouri River flood control projects, will be made.~~

11 Section 20. That § 31-4-10 be repealed.

12 ~~— 31-4-10. Any contract entered into pursuant to § 31-4-9 shall provide for reimbursement of~~
13 ~~the State of South Dakota by the United States of America for all works performed and~~
14 ~~materials furnished under said contract by the state and for all costs incurred prior to execution~~
15 ~~of said contract or contracts in connection with preliminary investigations, studies, plans, and~~
16 ~~estimates in furtherance of the contract or contracts.~~

17 Section 21. That § 31-4-11 be repealed.

18 ~~— 31-4-11. The Department of Transportation, in order to expeditiously carry out the terms of~~
19 ~~any contract or contracts pursuant to § 31-4-9, is authorized by resolution to make changes in~~
20 ~~the location of any part of the state trunk highway system necessary, to comply with said~~
21 ~~contract, and said changes are hereby authorized to be made without recourse to notice and~~
22 ~~hearing as provided by the general statute for changes in the state trunk highway system.~~

23 Section 22. That § 31-4-12 be repealed.

24 ~~— 31-4-12. The Department of Transportation, in order to expeditiously carry out the terms of~~

1 ~~any contract or contracts pursuant to § 31-4-9, is authorized to purchase rights-of-way and make~~
2 ~~surveys for the necessary projects and to let all contracts for the construction of the projects~~
3 ~~necessary to such relocations, rearrangements, or alterations in the same manner as now~~
4 ~~provided for federal aid and state aid projects.~~

5 Section 23. That § 31-4-14 be amended to read as follows:

6 31-4-14. All marking, surveying, construction, repairing, and maintenance of the state trunk
7 highway system ~~shall be~~ is under the control and supervision of the ~~Department of~~
8 ~~Transportation, and the department. The department shall be charged with the administration~~
9 ~~of administer~~ the laws relative thereto.

10 Section 24. That § 31-4-15 be repealed.

11 ~~—31-4-15. Any action by the governing body of any municipal corporation, the board of~~
12 ~~supervisors of any township, or the board of county commissioners of any county, having the~~
13 ~~effect of discontinuing, relocating, or altering the location or route of any highway forming a~~
14 ~~part of the state trunk highway system, shall be null and void.~~

15 Section 25. That § 31-5-1 be amended to read as follows:

16 31-5-1. The Department of Transportation shall maintain, and keep in repair, all highways
17 or portions of highways, including the bridges and culverts thereon, ~~which highways have been~~
18 ~~constructed or improved by the department and are on the state trunk highway system.~~

19 Section 26. That § 31-5-2 be repealed.

20 ~~—31-5-2. The Department of Transportation may at its option, maintain and keep in repair~~
21 ~~such other portions of the state trunk highway system which have not been constructed or~~
22 ~~improved by the Department of Transportation, or the construction or improvement of which~~
23 ~~has not been paid for in whole or in part by the state or federal aid.~~

24 Section 27. That § 31-5-3 be repealed.

1 ~~31-5-3. The Department of Transportation is hereby empowered to cause the maintenance~~
2 ~~and repair work provided for in §§ 31-5-1 and 31-5-2 to be performed by day labor, or by~~
3 ~~convict labor, or by contract, or by agreement with the board of county commissioners, and if~~
4 ~~such work is done by contract, such contract may be let with or without competitive bids as the~~
5 ~~department may determine.~~

6 Section 28. That § 31-5-4 be repealed.

7 ~~31-5-4. The Department of Transportation may rent, hire, or purchase the necessary tools,~~
8 ~~machinery, and equipment for the performance of the maintenance and repair work provided for~~
9 ~~in §§ 31-5-1 and 31-5-2.~~

10 Section 29. That § 31-5-5 be amended to read as follows:

11 31-5-5. The ~~Department of Transportation~~ department may enter into ~~agreements with~~
12 ~~counties, which agreements may~~ an agreement with any county to provide that each may
13 perform work or submit monetary contributions for the completion or improvement of a certain
14 part of the state trunk highway within ~~such respective~~ the county.

15 Section 30. That § 31-5-7 be repealed.

16 ~~31-5-7. All moneys heretofore allotted or to be hereafter allotted to the state from the federal~~
17 ~~government as federal aid for roads, shall be expended by the Transportation Commission on~~
18 ~~the type of highway designated as provided by the terms of the allotment.~~

19 Section 31. That § 31-5-8 be amended to read as follows:

20 31-5-8. All moneys levied and collected by the state by general state taxation for state
21 highway purposes, or received from the sale of bonds, or appropriated for state highway
22 purposes, shall be expended only in the laying out, marking, constructing, reconstructing, or
23 maintaining public highways forming the trunk highway system ~~except such sums as are~~
24 required. However, such moneys may only be used for the maintenance of the Transportation

Commission as provided in chapter 31-2, ~~and except that.~~ In addition, twenty-five percent of all such ~~funds~~ moneys accruing to the state highway fund, other than from federal funds, shall be at the disposal of the ~~Department of Transportation~~ department in marking, constructing, reconstructing, repairing, or maintenance of highways of the state.

Section 32. That § 31-5-9 be repealed.

~~31-5-9. The Department of Transportation shall determine the improvements to be made upon the trunk highway system during any year or years.~~

~~Immediately upon the determination to make certain improvements upon the trunk highway system the department shall cause a survey to be made and complete plans and data to be prepared.~~

Section 33. That § 31-5-11 be amended to read as follows:

31-5-11. Payments from all funds made available for road and bridge construction contracts for the trunk highway system shall be made from time to time by the state treasurer upon estimates approved by the ~~state highway engineer~~ department. Upon partial payments made upon signed contracts, the approval of the ~~state highway engineer~~ department on such partial payment vouchers is sufficient proof of the correctness of the same, and the oath of the payee is not required in this case.

Section 34. That § 31-5-12 be repealed.

~~31-5-12. The Department of Transportation may arrange to have the work done by day labor, convict labor, or arrangement with the board of county commissioners, and may use the county forces and machinery.~~

Section 35. That § 31-5-13 be repealed.

~~31-5-13. The boards of county commissioners are authorized to bid for the county upon work in their respective counties or may enter into contract with the state, without submitting~~

1 ~~competitive bids at advertised lettings.~~

2 Section 36. That § 31-5-14 be repealed.

3 ~~—31-5-14. The board of county commissioners of any county is authorized to cooperate with~~
4 ~~the Department of Transportation in the construction and maintenance of the state trunk~~
5 ~~highway system lying within its county and to use and expend funds from its county road fund~~
6 ~~for that purpose.~~

7 Section 37. That § 31-5-15 be repealed.

8 ~~—31-5-15. The Department of Transportation may purchase machinery, equipment, surplus~~
9 ~~war materials and arrange with local governments or contractors to use any machinery so~~
10 ~~obtained by the department, according to such terms as may be agreed to by the Transportation~~
11 ~~Commission. Money received from rental or sale of machinery or other surplus war materials~~
12 ~~or for freight or other charges shall be deposited with the state treasurer and credited to the state~~
13 ~~highway funds.~~

14 Section 38. That § 31-5-17 be repealed.

15 ~~—31-5-17. The Department of Transportation shall keep a detailed set of books and accounts,~~
16 ~~showing the expenditures by it and coming under its charge and supervision, and the amounts~~
17 ~~available for construction and maintenance work in each of the several counties.~~

18 Section 39. That § 31-5-19 be amended to read as follows:

19 31-5-19. To more effectually preserve the historical, archaeological, and paleontological
20 remains of the state, the ~~Department of Transportation is authorized to~~ department may enter
21 into agreements with the appropriate agencies of the state charged with preserving historical,
22 archaeological, and paleontological remains to have these agencies remove and preserve such
23 remains disturbed or to be disturbed by highway construction and to use highway funds, ~~when~~
24 if appropriated, for this purpose. This authority specifically extends to highways which are part

1 of the National System of Interstate and Defense Highways as defined in the Federal Aid
2 Highway Act of 1956, Public Law 627, 84th Congress, and the use of state funds on a matching
3 basis with such federal funds ~~therein~~.

4 Section 40. That § 31-6-1 be amended to read as follows:

5 31-6-1. In order that the state may, through ~~its~~ the Department of Transportation, more fully
6 cooperate with the federal government in its program for extending aid in construction of certain
7 roads designated by Title 23, United States Code, ~~and acts amendatory thereof~~ as secondary
8 roads, the ~~Department of Transportation is hereby authorized and empowered to~~ department
9 may participate and assist in ~~said~~ the program to the extent ~~hereinafter~~ provided by this chapter.

10 Section 41. That § 31-6-2 be amended to read as follows:

11 31-6-2. The ~~Department of Transportation is hereby authorized and empowered to~~
12 department may cooperate with the various boards of county commissioners, and other
13 appropriate local road officers of the state, and the Federal Highway Administration, in the
14 selection of a system of secondary roads as set out in Title 23, United States Code, and to submit
15 to the Federal Highway Administration in the same manner as other federal aid projects are now
16 submitted, projects for improving any roads on the principal secondary roads, rural free delivery
17 mail, and public school bus routes, either outside of municipalities or inside of municipalities
18 of less than five thousand population, and which are not on the federal aid primary highway
19 system or state trunk highway system.

20 Section 42. That § 31-6-3 be amended to read as follows:

21 31-6-3. Before any project under the provisions of this chapter may be submitted to the
22 Federal Highway Administration, a request for the submission of the project shall be embodied
23 in a resolution passed by the governing body of the county having control of the highway upon
24 which the project is desired, and a certified copy of same filed with the ~~Department of~~

1 ~~Transportation~~ department, together with an agreement by the county to reimburse the
2 ~~Department of Transportation~~ department for any costs over and above those costs covered by
3 the federal-aid secondary funds available to the county plus the state highway funds matching
4 those federal-aid secondary funds to carry out ~~said~~ the project to the beginning of construction.
5 However, if the county petitioning for the project desires to use its own highway organization
6 for the making of ~~such~~ the preliminary survey, plans, and estimates, ~~it~~ the county may do so, but
7 ~~same~~ the survey, plans, and estimates shall be submitted in detail to the ~~Department of~~
8 ~~Transportation~~ department for approval.

9 Section 43. That § 31-6-4 be amended to read as follows:

10 31-6-4. In case any secondary road project is approved by the Federal Highway
11 Administration, the ~~Department of Transportation~~ department may call for bids and let a
12 contract for the work in the same manner as now provided for federal aid projects, ~~provided,~~
13 ~~however, that no such.~~ However, no contract ~~shall~~ may be let until the county having
14 jurisdiction of ~~said~~ the highway, ~~shall have~~ has fully and legally provided for the payment of any
15 project costs over and above those costs covered by the federal-aid secondary funds available
16 to the county plus the state highway fund matching those federal-aid secondary funds. However,
17 no such contract may be let until the political subdivision under whose jurisdiction the highway
18 upon which the project is to be constructed has entered into a binding agreement to maintain the
19 project when completed at ~~its~~ the subdivision's own cost and expense in such manner as ~~shall~~
20 may be agreeable to the federal highway administration and the ~~Department of Transportation~~
21 department.

22 Section 44. That § 31-6-5 be amended to read as follows:

23 31-6-5. The jurisdiction and control of the highways upon which any ~~said~~ secondary road
24 projects may be approved or constructed, ~~shall be~~ is and shall remain in the county or other

1 political subdivision as it was, and to the extent it was at the time of the setting up of ~~said the~~
2 ~~project save and only that.~~ However, the ~~Department of Transportation shall have power to~~
3 department may enter into a project agreement with the Federal Highway Administration for
4 ~~same,~~ contract for construction of ~~same the project,~~ and ~~shall have full power and authority to~~
5 supervise, control, and oversee the construction of ~~said the~~ project in accordance with their
6 agreement with the Federal Highway Administration.

7 Section 45. That § 31-6-6 be amended to read as follows:

8 31-6-6. The State of South Dakota ~~shall is not be~~ ultimately liable for the costs of any ~~such~~
9 secondary road project not redeemable from public road funds including the state match of those
10 funds ~~but shall act solely.~~ The department shall act as agent for the county affected ~~hereby~~ in
11 submission of ~~said the~~ project, letting of the contract, and the supervision and control of the
12 construction ~~and shall be reimbursed by the.~~ The county originating the project shall reimburse
13 the state for ~~its~~ the state's share of all money expended and not redeemable from federal funds
14 plus state match in bringing ~~same the project~~ to the construction stage regardless of whether ~~or~~
15 ~~not said the~~ contract is finally let, and the Department of Transportation shall also be reimbursed
16 ~~by the.~~ The county requesting ~~said the~~ project shall reimburse the department in case the
17 contract is let for all expenses incurred in supervising or controlling the construction work, and
18 for all money paid out or advanced at any time in carrying out the construction of ~~said the~~
19 project and not redeemable from federal funds including the state match of those funds.

20 Section 46. That § 31-6-7 be amended to read as follows:

21 31-6-7. Nothing in this chapter ~~contained shall~~ may be construed to bind the State of South
22 Dakota, or the Department of Transportation department to pay the cost of maintenance of ~~said~~
23 ~~projects~~ any secondary road project when completed; ~~it being the intention of this statute to~~
24 ~~place the maintenance cost of said projects upon the.~~ The political subdivision under whose

jurisdiction the highway is at the time ~~said~~ maintenance work is required is responsible for the maintenance cost of the project.

Section 47. That § 31-6-9 be amended to read as follows:

31-6-9. The Transportation Commission shall provide sufficient funds from the state highway fund to match all federal-aid secondary funds used to construct a project under this chapter. ~~This section shall be applicable to federal-aid secondary funds allocated to the counties after July 1, 1989.~~

Section 48. That § 31-7-1 be amended to read as follows:

31-7-1. ~~For the purpose of this chapter~~ Terms used in this chapter mean:

(1) "National system of interstate highways," includes all highways that have been or may become eligible for development with funds provided by federal highway acts for use on the interstate system;

(2) "Control areas," a control area is a metropolitan area, first or second class municipality, or industrial center, defense installation, a topographic feature such as a mountain pass, a favorable river crossing, a hub road which would result in material traffic increment on the interstate route, a section of completed expressway, or a place on the common boundary of two states agreed to by the states concerned;

(3) "Intermediate control points," an intermediate control point is either end of an acceptable section on final location of an interstate route;

(4) "Department," the Department of Transportation.

Section 49. That § 31-7-2 be amended to read as follows:

31-7-2. The ~~Department of Transportation is hereby authorized and empowered to~~ department may employ such assistants, agents, engineers, and engineering consultants and to enter into such contractual relations in behalf of the state and to do and perform all such acts as

are necessary for the public good agreeable to the provisions of this chapter.

Section 50. That § 31-7-3 be amended to read as follows:

31-7-3. The ~~South Dakota Department of Transportation~~ department, in cooperation with the Federal Highway Administration of the United States Department of Transportation, or other agencies of the United States government, may locate and construct the South Dakota sections of the National System of Interstate Highways according to American Association of State Highway and Transportation Officials Standards peculiar to that system and shall operate and maintain ~~said the~~ highways as toll-free facilities ~~as hereinafter provided~~.

Section 51. That § 31-7-4 be amended to read as follows:

31-7-4. The ~~Department of Transportation is hereby authorized and empowered to~~ department may determine the location of ~~aforsaid~~ toll-free highways along alignments consistent with interstate highway standards.

Section 52. That § 31-7-5 be amended to read as follows:

31-7-5. The ~~Department of Transportation is hereby authorized and empowered to~~ department may acquire right-of-way, borrow pits, and other land and materials under the provisions of §§ 31-19-1 to 31-19-19, inclusive.

Section 53. That § 31-7-6 be amended to read as follows:

31-7-6. The ~~Department of Transportation is hereby authorized and empowered to~~ department may designate locations and ~~to~~ establish, limit, and control ~~such~~ points of ingress and egress ~~as is desirable~~ to ensure proper operation of highways of the national system of interstate highways and ~~to~~ prohibit entrance to or egress from ~~said the~~ highways at points not so designated.

Section 54. That § 31-7-7 be amended to read as follows:

31-7-7. The ~~Department of Transportation is hereby authorized and empowered to~~

1 department may construct grade separations at intersections with other public roads and to adjust
2 the lines and grades of such other roads so as to accommodate the design of toll-free roads of
3 the national system of interstate highways.

4 Section 55. That § 31-7-8 be amended to read as follows:

5 31-7-8. ~~It shall be the duty of the Department of Transportation~~ The department, in
6 cooperation with the United States government and adjacent states, ~~to~~ may establish control
7 areas and control points between control areas as set forth in this chapter and ~~to~~ program the
8 construction on ~~said~~ the interstate system in a manner that will permit use of new construction
9 on sections connecting the intermediate control points.

10 Section 56. That § 31-7-9 be amended to read as follows:

11 31-7-9. ~~The Department of Transportation shall have power to~~ department may mark ~~said~~
12 the highways with the names or numbers that are selected for use as identification of the
13 highways by the states through which the interstate routes pass.

14 Section 57. That § 31-7-10 be amended to read as follows:

15 31-7-10. ~~The Department of Transportation is authorized to~~ department may use such state
16 highway funds as are required by federal highway acts for matching federal funds allocated for
17 construction on the interstate system.

18 Section 58. That § 31-7-11 be amended to read as follows:

19 31-7-11. Maintenance expense of ~~said~~ the interstate system shall be from state highway
20 funds, ~~except that~~. However, highway funds of counties, townships, and municipalities, ~~and~~
21 ~~villages~~ may be used in the maintenance of local service roads, overpasses, and underpasses
22 constructed in connection with the interstate system, unless federal funds are made available for
23 this purpose.

24 Section 59. That § 31-7-13 be amended to read as follows:

1 31-7-13. Counties, townships, and municipalities, and villages are authorized to may expend
2 highway funds for the maintenance of local service roads, overpasses, and underpasses
3 constructed in connection with the interstate highway system upon assuming maintenance
4 obligations by agreement with the ~~Department of Transportation~~ department.

5 Section 60. That § 31-7-14 be amended to read as follows:

6 31-7-14. ~~This~~ The provisions of this chapter shall in no way do not alter the duties of the
7 ~~Department of Transportation~~ department in laying out, constructing, or maintaining the state
8 trunk highway system, nor ~~shall it~~ do they prohibit or require that the interstate system follow
9 or cease to follow any of the designated portions of the state trunk system.

10 Section 61. That § 31-7-15 be amended to read as follows:

11 31-7-15. ~~It is a petty offense to~~ No person may camp at any rest and recreation areas area
12 established by the ~~Department of Transportation~~ department within and adjacent to the national
13 system of interstate highways in South Dakota. A violation of this section is a petty offense.

14 Section 62. That § 31-7-17 be amended to read as follows:

15 31-7-17. No person temporarily resting in any vehicle is in violation of the provisions of
16 § 31-7-15. For purposes of this section, temporarily resting means stopping, parking, or
17 otherwise keeping or occupying any vehicle in a rest ~~or recreation~~ area, or any portion thereof
18 not officially designated for camping, for not more than three consecutive hours or, if the driver
19 of a commercial motor vehicle subject to the provisions of 49 C.F.R. Part 395, as of January 1,
20 2001, for not more than eight consecutive hours.

21 Section 63. That § 31-7-18 be amended to read as follows:

22 31-7-18. Any person violating the provisions of § 31-7-15, in addition to the penalty
23 provided by § 22-6-7, may be fined an amount as determined by the court which may be
24 necessary to reimburse the ~~Department of Transportation~~ department for the expense of

1 repairing any damage to such rest ~~and recreation~~ area resulting from such violation.

2 Section 64. That § 31-8-2 be amended to read as follows:

3 31-8-2. ~~Highways or streets~~ Any highway or street constituting a controlled-access ~~facilities~~
4 facility may be ~~freeways~~ a freeway open to use by all customary forms of street and highway
5 traffic; or ~~they~~ the highway or street may be ~~parkways~~ a parkway from which trucks, buses, and
6 other commercial vehicles ~~shall be~~ are excluded.

7 Section 65. That § 31-8-3 be amended to read as follows:

8 31-8-3. The highway authorities of the state, counties, and municipalities, acting alone or
9 in cooperation with each other or with any federal, state, or local agency or any other state
10 having authority to participate in the construction and maintenance of highways, ~~are hereby~~
11 ~~authorized to~~ may plan, designate, establish, regulate, vacate, alter, improve, maintain, and
12 provide controlled-access facilities for public use wherever ~~such the~~ authority ~~or authorities are~~
13 is of the opinion that traffic conditions, present or future, will justify ~~such the~~ special facilities;
14 ~~provided, that. However,~~ within ~~municipalities such~~ a municipality that authority ~~shall be~~ is
15 subject to ~~such~~ any municipal consent as may be ~~provided~~ required by law.

16 Section 66. That § 31-8-5 be amended to read as follows:

17 31-8-5. The highway authorities of the state, counties, and municipalities ~~are authorized to~~
18 ~~so~~ may design any controlled-access facility and ~~to so~~ regulate, restrict, or prohibit access as to
19 best serve the traffic for which ~~such the~~ facility is intended. In this connection ~~such the~~ highway
20 authorities ~~are authorized to~~ may divide and separate any controlled-access facility into separate
21 roadways by the construction of raised curbing, central dividing sections, or other physical
22 separations, or by designating ~~such~~ separate roadways by signs, markers, stripes, and the proper
23 lane for ~~such~~ traffic by appropriate signs, markers, stripes, and other devices.

24 Section 67. That § 31-8-6 be amended to read as follows:

1 31-8-6. No person ~~shall have~~ has any ~~rights~~ right of ingress or egress to, from or across any
2 controlled-access ~~facilities~~ facility to or from any abutting ~~lands~~ land, except at ~~such~~ any
3 designated ~~points~~ point at which access may be permitted, ~~upon such terms and conditions as~~
4 ~~may be specified from time to time.~~

5 Section 68. That § 31-8-7 be amended to read as follows:

6 31-8-7. For the purposes of this chapter, the highway authorities of the state, counties, or
7 municipalities may acquire private or public property rights for any controlled-access ~~facilities~~
8 facility and service ~~roads~~ road, including rights of access, air, view, and light, by gift, devise,
9 purchase, or condemnation ~~in the same manner as such units are now or hereafter~~ as may be
10 authorized by law to acquire such property or property rights in connection with ~~highways~~ any
11 highway and ~~streets~~ street within their respective jurisdictions.

12 Section 69. That § 31-8-8 be amended to read as follows:

13 31-8-8. In connection with the acquisition of property or property rights for any
14 controlled-access facility or portion thereof, or service road in connection therewith, the state,
15 county, city, or town highway authority may, ~~in its discretion,~~ acquire an entire lot, block, or
16 tract of land, if, by so doing, the interests of the public will be best served, even though ~~said~~ the
17 entire lot, block, or tract is not immediately needed for the right-of-way proper.

18 Section 70. That § 31-8-9 be amended to read as follows:

19 31-8-9. ~~Court proceedings~~ Any court proceeding necessary to acquire property or property
20 rights for purposes of this chapter may take precedence over all other causes not involving the
21 public interest in all courts, to the end that the provision of controlled-access facilities may be
22 expedited.

23 Section 71. That § 31-8-10 be amended to read as follows:

24 31-8-10. The highway authority of the state, county, or municipality may designate and

1 establish any controlled-access ~~highways~~ highway as a new and additional ~~facilities~~ facility or
2 may designate and establish an existing street or highway as included within a controlled-access
3 facility.

4 Section 72. That § 31-8-11 be amended to read as follows:

5 31-8-11. The state or any of its subdivisions ~~shall have authority to~~ may provide for the
6 elimination of intersections at grade of controlled-access facilities with existing state and county
7 roads, and city or town streets, by grade separation or service road, or by closing off ~~such the~~
8 roads and streets at the right of way boundary line of such controlled-access facility; ~~and after.~~
9 After the establishment of any controlled-access facility, no highway or street which is not a part
10 of ~~said the~~ the facility ~~shall~~ may intersect the ~~same~~ facility at grade.

11 Section 73. That § 31-8-12 be amended to read as follows:

12 31-8-12. No ~~city or town~~ municipal street, county or state highway, or other public way ~~shall~~
13 may be opened into or connected with any ~~such~~ controlled-access facility without the consent
14 and previous approval of the highway authority in the state, county, or municipality having
15 jurisdiction over ~~such the~~ the controlled-access facility. ~~Such~~ The consent and approval shall be
16 given only if the public interest ~~shall be~~ is served thereby.

17 Section 74. That § 31-8-13 be amended to read as follows:

18 31-8-13. The highway authorities of the state, counties, or municipalities ~~are authorized to~~
19 may enter into agreements with each other, or with the federal government, respecting the
20 financing, planning, establishment, improvement, maintenance, use, regulation, or vacation of
21 a controlled-access ~~facilities~~ facility or other public ~~ways~~ way in their respective jurisdictions
22 to facilitate the purpose of this chapter.

23 Section 75. That § 31-8-14 be amended to read as follows:

24 31-8-14. In connection with the development of any controlled-access facility the state,

1 county, ~~city, or town~~ municipal highway authorities ~~are authorized to~~ may plan, designate,
2 establish, use, regulate, alter, improve, maintain, and vacate local service roads and streets or
3 ~~to~~ designate as local service roads and streets any existing road or street, and ~~to~~ exercise
4 jurisdiction over service roads in the same manner as is authorized over any controlled-access
5 ~~facilities~~ facility under the terms of this chapter, if, in their opinion, ~~such~~ the local service roads
6 and streets are necessary or desirable. ~~Such~~ The local service ~~roads~~ road or ~~streets~~ street shall
7 be of appropriate design, and shall be separated from the controlled-access facility proper by
8 means of all devices designated as necessary or desirable by the proper authority.

9 Section 76. That § 31-8-16 be amended to read as follows:

10 31-8-16. No automotive service station or other commercial establishment for serving motor
11 vehicle users may be constructed or located within the right-of-way of, or on publicly owned
12 or publicly leased land acquired or used for or in connection with, a controlled-access highway.
13 This section does not apply to a vending facility vending soft drinks only operated for the
14 benefit of ~~visually impaired vendors~~ any vendor who is blind or visually impaired licensed by
15 the ~~division of service to the visually impaired~~ Division of Service to the Blind and Visually
16 Impaired. A violation of this section is a Class 2 misdemeanor.

17 Section 77. That § 31-9-1 be amended to read as follows:

18 31-9-1. The Department of Transportation ~~in the case of state trunk highways,~~ and the board
19 of county commissioners of ~~the proper~~ an affected county ~~in the case of county highways,~~ may
20 relinquish to the United States for use and construction and control of highways by the secretary
21 of interior, acting through the national park service, all of the interest of the state and the county
22 in such portions of public highways lying within the boundaries of national parks and national
23 monuments. The relinquishment of interest in ~~such~~ the highways shall operate as a cession to
24 the United States of jurisdiction for highway purposes over such portions of the highways lying

1 within said national parks or national monuments.

2 Section 78. That § 31-9-2 be repealed.

3 ~~—31-9-2. If the Department of Transportation relinquishes any part of the state trunk highway~~
4 ~~in accordance with § 31-9-1, the Transportation Commission without notice or hearing may pass~~
5 ~~a resolution removing as much as has been relinquished from the state trunk highway system.~~
6 ~~Upon the passage of the resolution by the Transportation Commission, and the adoption and~~
7 ~~filing of the resolution in the office of the Department of Transportation at Pierre, South Dakota,~~
8 ~~the relinquished portion ceases to be a part of the state trunk highway system.~~

9 Section 79. That § 31-9-3 be repealed.

10 ~~—31-9-3. Relinquishment by the board of county commissioners of any portion of any county~~
11 ~~roads in accordance with § 31-9-1 shall be by resolution of the board of county commissioners~~
12 ~~concerned, without notice and without compliance with any other statute providing for vacation~~
13 ~~of county highways and shall operate as cession to the United States of jurisdiction of same for~~
14 ~~highway purposes. In case of the cession of any part of a county road a copy of the resolution~~
15 ~~so doing shall be filed with the Department of Transportation at Pierre, South Dakota.~~

16 Section 80. That § 31-10-1 be amended to read as follows:

17 31-10-1. ~~Whenever in this chapter the word, bridge, or the word, culvert, is used, it shall~~
18 ~~have the following meaning:~~

19 ~~—The word, bridge, shall mean~~ Terms used in this chapter mean:

20 (1) "Bridge," a structure, including supports, erected over a depression or an obstruction,
21 as water, highway, or railway, ~~said the~~ the structure having a length measured along the
22 center of the roadway of more than twenty feet between undercopings of abutments
23 or extreme ends of openings for multiple boxes and pipes where the clear distance
24 between openings is less than half of the smaller contiguous opening:

1 ~~The word, culvert, shall mean:~~

2 (2) "Culvert," any structure not classified as a bridge which provides an opening under
3 any roadway;

4 (3) "Department," the Department of Transportation.

5 Section 81. That § 31-10-2 be amended to read as follows:

6 31-10-2. For the purposes of §§ 31-10-2 to 31-10-11, inclusive, the following ~~definitions~~
7 ~~shall apply~~ terms mean:

8 (1) "Boundary state highway bridge;" a highway bridge over a stream, river, or lake on
9 the boundary line between the State of South Dakota and an adjoining state, which
10 bridge is located or to be located on a state highway or an extension of such highway
11 and constitutes or will constitute a connecting link between the state highway system
12 of this state and an adjoining state;

13 (2) "Bridge;" in addition to its ordinary meaning, the ~~word, bridge, shall include~~ term
14 includes the substructure, superstructure, approach spans, approach fills and roadway,
15 right-of-way, and all other items necessary to make such structure complete and
16 accessible to traffic.

17 Section 82. That § 31-10-3 be amended to read as follows:

18 31-10-3. The ~~Department of Transportation is hereby authorized and empowered to~~
19 department may acquire by purchase or condemnation, construct, and maintain boundary state
20 highway bridges.

21 Section 83. That § 31-10-4 be amended to read as follows:

22 31-10-4. In the purchase, acquisition, construction, or maintenance under §§ 31-10-2 to 31-
23 10-11, inclusive, of any boundary state highway bridge or approaches thereto, the ~~Department~~
24 ~~of Transportation shall have authority and power to~~ department may purchase, or to institute and

1 maintain proceedings for the condemnation of the necessary right-of-way therefor. All the
2 provisions of the law relating to the condemnation of real or personal property for public state
3 purposes shall apply to the provisions hereof and may be exercised by the Department of
4 Transportation department for the carrying out of the purposes of §§ 31-10-2 to 31-10-11,
5 inclusive.

6 Section 84. That § 31-10-6 be amended to read as follows:

7 31-10-6. The Department of Transportation shall department may not purchase, acquire by
8 condemnation, or construct any bridge under the provisions of §§ 31-10-2 to 31-10-11,
9 inclusive, until such time as the adjoining and contracting state ~~shall furnish~~ furnishes its
10 proportionate share of the purchase price or cost of construction, or signify its intention, by and
11 through its proper department, of acquiring title through the exercise of the power of eminent
12 domain of the portion of any existing bridge situate in ~~such~~ the adjoining state.

13 Section 85. That § 31-10-8 be amended to read as follows:

14 31-10-8. ~~All bridges~~ Any bridge purchased or constructed under §§ 31-10-2 to 31-10-11,
15 inclusive, shall be free from tolls, ~~except that. However,~~ tolls may be collected on the traffic
16 crossing ~~any such~~ the bridge until such time as the net sum of tolls so collected plus funds paid
17 as provided in §§ 31-10-6 and 31-10-7, ~~shall equal~~ equals the cost of ~~said~~ the structure plus a
18 reasonable rate of interest on deferred installments of ~~said~~ the cost. The portion of the net tolls
19 collected on ~~any such~~ the bridge, going to the State of South Dakota shall be credited to the state
20 highway fund.

21 Section 86. That § 31-10-9 be amended to read as follows:

22 31-10-9. ~~Agreements~~ Any agreement entered into under §§ 31-10-2 to 31-10-11, inclusive,
23 by the Department of Transportation department, for the purchase or construction of any bridge,
24 may provide for one or more annual payments, but not exceeding ten. A reasonable rate of

1 interest may be paid on deferred installments to be paid under any ~~such agreements~~ agreement.

2 Section 87. That § 31-10-10 be amended to read as follows:

3 31-10-10. The State of South Dakota ~~shall be~~ is under no obligation to make any payments
4 on account of any agreement entered into under §§ 31-10-2 to 31-10-11, inclusive, out of any
5 fund other than the state highway fund.

6 Section 88. That § 31-10-11 be amended to read as follows:

7 31-10-11. Before the ~~Department of Transportation shall enter~~ department enters into any
8 contract for the purchase of any bridge, under the provisions of §§ 31-10-2 to 31-10-11,
9 inclusive, an appraisal shall be made of ~~such the~~ the bridge and its approaches, or the portion of
10 ~~such the~~ the bridge and approach thereto situate in this state, ~~and no.~~ No contract ~~shall~~ may be
11 entered into or any money used for such purchase exceeding the appraised value of that portion
12 of ~~such the~~ the bridge situate within the State of South Dakota.

13 Section 89. That § 31-10-12 be amended to read as follows:

14 31-10-12. The State of South Dakota, by and through its ~~Department of Transportation~~, may
15 accept title to and responsibility for the repair, maintenance, and ownership of that portion of
16 any existing toll bridge situated within the boundaries of the State of South Dakota, ~~whenever~~
17 if:

- 18 (1) That portion of ~~such the~~ the bridge ~~shall be~~ is offered to this state by its owners free of
19 existing bonded indebtedness and current costs of operation; and
- 20 (2) Any adjoining state in which the remainder of ~~such the~~ the bridge is situated ~~shall signify~~
21 signifies its intention, by and through its proper governmental instrumentality, having
22 control and supervision over state bridges, of accepting title to and responsibility for
23 the repair, maintenance, and ownership of the portion of the bridge situated in ~~such~~
24 the adjoining state.

Section 90. That § 31-10-13 be amended to read as follows:

31-10-13. Subsequent to the acceptance of title to and responsibility for that portion of any such bridge, in the manner set forth in § 31-10-12, the ~~Department of Transportation of the State of South Dakota, is authorized to~~ department may operate any such the bridge, in conjunction with the proper governmental authority of an adjoining state, free of tolls.

Section 91. That § 31-10-14 be amended to read as follows:

31-10-14. The ~~Department of Transportation of the State of South Dakota~~ department shall repair and maintain and assume ownership of that part of any bridge situated within the State of South Dakota after acceptance ~~thereof~~ as provided in § 31-10-12.

Section 92. That § 31-10-15 be amended to read as follows:

31-10-15. The cost of operation and maintenance of that part of any bridge situated within the State of South Dakota after acceptance ~~thereof~~, as provided in § 31-10-12, shall be paid by the ~~Department of Transportation of the State of South Dakota~~ department out of the state highway fund.

Section 93. That § 31-10-16 be amended to read as follows:

31-10-16. The ~~Department of Transportation~~ department may enter into a reciprocity ~~agreements~~ agreement and any other agreements agreement with the proper governmental authorities of an adjoining state for the sharing of the cost of joint operation, repair, and maintenance pursuant to § 31-10-13.

Section 94. That § 31-14-1 be amended to read as follows:

31-14-1. ~~Whenever in this chapter the word, bridge, or the word, culvert, is used, it shall have the following meaning:~~

~~—The word, bridge, shall mean~~ Terms used in this chapter mean:

(1) "Bridge," a structure, including supports, erected over a depression or an obstruction,

as water, highway, or railway, ~~said~~ the structure having a length measured along the center of the roadway of more than twenty feet between undercopings of abutments or extreme ends of openings for multiple boxes and pipes where the clear distance between openings is less than half of the smaller contiguous opening:

~~— The word, culvert, shall mean:~~

(2) "Culvert," any structure not classified as a bridge ~~which~~ that provides an opening under any roadway;

(3) "Department, the Department of Transportation.

Section 95. That § 31-14-4 be amended to read as follows:

31-14-4. ~~All bridges, abutments, and approaches or repairs to bridges hereafter~~ Any bridge, abutment, and approach or repair to a bridge required in any county of this state, shall be constructed in accordance with plans and specifications ~~therefor, which shall be~~ prepared by the ~~Department of Transportation~~ department or a registered engineer retained by the board of county commissioners for such purpose ~~and which~~. The plans and specifications shall show and describe the style and size thereof, the kind, weight, and quality of all materials to be used in ~~their~~ the construction and the proper proportion of the ingredients for mixture and reinforcements.

Section 96. That § 31-14-5 be amended to read as follows:

31-14-5. The profile, location, soundings, and estimated watershed provided for in § 31-14-3 may then be forwarded to the ~~Department of Transportation~~ department together with a request for plans and specifications for such bridge or abutments, piers, or other related piece of work, or may be used by a registered engineer retained by the board of county commissioners in preparing plans and specifications for such work. Plans and specifications prepared by a registered engineer retained by the board of county commissioners shall conform to the design

1 requirements of the American Association of State Highway and Transportation Officials. ~~Such~~
2 The plans and specifications, whether prepared by the department or by a registered engineer
3 retained for that purpose, shall be forwarded to the proper county auditor who shall place them
4 on file in ~~his~~ the auditor's office.

5 Section 97. That § 31-14-11 be amended to read as follows:

6 31-14-11. Promptly at the hour specified, the board of county commissioners in open session
7 shall proceed to examine all sealed bids and notify the successful bidder that ~~his~~ the bid has
8 been accepted, subject to the approval of the ~~Department of Transportation~~ department as
9 provided for in § 31-14-12. Upon being so notified, the successful bidder shall forthwith enter
10 into a contract with such county in accordance with ~~his~~ the bid, and ~~such~~ the successful bid,
11 together with the plans and specifications upon which ~~such~~ the bid was based, ~~shall be~~ is
12 deemed a part of the contract.

13 Section 98. That § 31-14-12 be amended to read as follows:

14 31-14-12. Before any contract for a bridge or piece of work, entered into by and between any
15 successful bidder and the board of county commissioners, the total amount of which ~~shall~~
16 ~~exceed~~ exceeds the sum of two thousand dollars, ~~shall be~~ is valid, it ~~must~~ shall first have the
17 approval of the ~~Department of Transportation~~ department. If the department finds upon
18 examination of the contract that the contract price is too high, taking into account the material
19 used and existing circumstances, ~~it shall be the duty of said~~ the department ~~to~~ shall inform the
20 board of county commissioners of its reason for rejecting ~~such~~ the contract and ~~to~~ advise a
21 method of proceeding in the matter. In all cases where bids are rejected as being too high, the
22 work may be let at private contract if so recommended and approved by the department.

23 Section 99. That § 31-14-19 be amended to read as follows:

24 31-14-19. The county highway superintendent shall keep a detailed account of all material

1 found necessary to add to or deduct from each and every structure as set forth in the plans and
2 specifications~~therefor~~, and on completion, a detailed statement of the cost of the structure,
3 including the additions or reductions from the contract price, and compensation to the inspector,
4 if any, shall be filed with the county auditor by the county highway superintendent,~~and it shall~~
5 ~~be the duty of the~~. The county auditor ~~to~~ shall forward a copy of ~~such~~ the cost statement to the
6 ~~Department of Transportation~~ department.

7 Section 100. That § 31-14-21 be amended to read as follows:

8 31-14-21. In lieu of accepting any bids received upon any bridge, approach, or abutment,
9 or repair to bridge, or in case of emergency, the board of county commissioners may, if in their
10 judgment ~~such~~ the bridge or piece of work may be procured for less money than the amount of
11 any bid submitted, cause the same to be built by day labor by regular county labor and
12 county-owned equipment. ~~Such~~ The construction shall be in charge of the county highway
13 superintendent~~and he~~. The superintendent shall hire a foreman, purchase the necessary material,
14 and hire the necessary labor for the construction of each ~~and every~~ such bridge, or piece of work,
15 and such work shall be done in accordance with plans and specifications ~~therefor~~ furnished by
16 the ~~Department of Transportation~~ department the same as any other bridge or piece of work let
17 by contract.

18 Section 101. That § 31-14-22 be amended to read as follows:

19 31-14-22. The county highway superintendent shall keep a careful and itemized account of
20 the quantity and cost of all materials and labor used in the construction of each such bridge or
21 piece of work, in a standard form prescribed by the ~~Department of Transportation~~, ~~and such~~
22 department. The cost statement shall be filed with the county auditor and a copy transmitted to
23 the department as in the case of the cost statement of any other bridge or piece of work as
24 provided in this chapter.

Section 102. That § 31-14-23 be amended to read as follows:

31-14-23. If it is deemed advisable by the board of county commissioners, ~~they~~ the board may purchase such materials as cement, sand, stone, metal, culverts, reinforcement steel, or other material to be used in the construction of roads, bridges, and culverts, in quantities sufficient to meet the estimated demand of ~~such~~ the county for such materials for the next succeeding twelve months. Before purchasing any such materials, however, the board of county commissioners ~~must~~ shall first have an estimate prepared by the county highway superintendent setting forth the needs of the county during the twelve months, ~~and the~~. The county highway superintendent shall prepare specifications of the quality of all materials, such specifications to be approved by the ~~Department of Transportation~~ department. No patented material ~~shall~~ may be specified to the exclusion of unpatented material.

Section 103. That § 31-14-25 be amended to read as follows:

31-14-25. Before any contract is let by any board of county commissioners under § 31-14-24, the necessity for ~~such~~ the emergency contract ~~must~~ shall first be approved by the ~~Department of Transportation~~ department and any contract let thereunder ~~must~~ shall in all respects be first approved by the department.

Section 104. That § 31-14-36 be amended to read as follows:

31-14-36. In making such apportionment of any highway or meandered stream constituting the county line between two or more counties, as provided by § 31-14-35, the respective boards of county commissioners shall take into consideration the number of streams crossing ~~such~~ the highway and the probable necessity of the number of bridges to be constructed and to be kept in repair upon ~~such~~ the county line, ~~and in~~. In apportioning the ~~same into districts for the purpose of such section~~ they highway or stream, the boards shall equalize as near as possible the burden of building and maintaining the bridges on the highways of ~~such~~ the county line. In

1 case of a failure to apportion any such highway or meandered stream, as provided in § 31-14-35,
2 the same shall be apportioned by the ~~Department of Transportation~~ department.

3 Section 105. That § 31-17-1 be amended to read as follows:

4 31-17-1. If any portion of a county highway system ~~shall lie~~ lies on a state line, the
5 Department of Transportation ~~is authorized to~~ may confer with the authorities of the bordering
6 state and ~~to~~ agree upon the assignment of portions of ~~such~~ the highway to the counties of the
7 two states for construction, repair, and maintenance, ~~and any such agreement and assignment~~
8 ~~made before July 1, 1939, is hereby confirmed.~~

9 Section 106. That § 31-17-2 be amended to read as follows:

10 31-17-2. Subject to approval of the ~~Department of Transportation~~ department, boards of
11 county commissioners of adjoining counties shall make proper connections between roads
12 which cross county lines and which afford continuous routes of travel; adopt plans and
13 specifications for highway construction, reconstruction, and repairs upon highways along and
14 across county boundary lines, and make an equitable division between such counties of the cost
15 and work of execution of such plans and specifications; ~~such division, in.~~ In case of
16 disagreement, ~~to be made by~~ on the division, the Transportation Commission shall make the
17 division.

18 Section 107. That § 31-17-3 be amended to read as follows:

19 31-17-3. ~~Whenever~~ If boards of county commissioners fail to perform the duty prescribed
20 by 31-17-2, or in case of disagreement by such boards, an appeal may be made to the
21 Transportation Commission by one of them, ~~and the.~~ The commission shall notify the county
22 auditors of the counties concerned that the commission will, on a day not less than ten days
23 thereafter, at a named time and place within one of such counties, hold a hearing to determine
24 all matters involved. At ~~such~~ the hearing the commission shall fully investigate all questions

involved, and shall, as soon as practicable, certify its decision to the different boards,~~which.~~
The decision ~~shall be~~ is final, and such boards ~~must forthwith~~ shall comply.

Section 108. That § 31-17-4 be amended to read as follows:

31-17-4. Any portion of a county highway system lying on a county line and assigned to a county by the Transportation Commission for construction and maintenance shall be considered as lying fully within ~~such~~ the county and all procedure and requirements ~~shall apply to the same~~ as if ~~such~~ the road lay wholly within the limits of one county.

Section 109. That § 31-19-22 be repealed.

~~31-19-22. The provisions of §§ 31-19-1 to 31-19-19, inclusive, as to purchase of rights-of-way and material shall not be held to apply to any right-of-way on any project, which shall have been contracted for prior to January 1, 1939, but on all such projects the same shall be acquired and paid for by the county.~~

Section 110. That § 31-19-39 be repealed.

~~31-19-39. It is the expressed legislative purpose and intention that the statutes pertaining to condemnation (eminent domain) existing on November 5, 1962, shall be and are hereby ratified, confirmed, reestablished, and declared to be in full force and effect notwithstanding any interpretation to the contrary of the language as contained in S.D. Const., Art. VI, § 13.~~

Section 111. That § 31-19-41 be repealed.

~~31-19-41. If any provision of §§ 31-19-23 to 31-19-40, inclusive, or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect the provisions or applications of the sections which can be given effect without the invalid provision or application, and to this end the provisions of said sections are declared to be severable.~~

Section 112. That § 31-20-1 be amended to read as follows:

31-20-1. ~~Whenever it shall be~~ If deemed necessary by the Department of Transportation in

1 order to avoid natural obstructions ~~or~~₂ to make a shorter system route, ~~or~~ to eliminate curves,
2 or to avoid valuable improvements ~~it shall be lawful to locate~~₂ a highway may be located over
3 and across any common school, endowment, or other state lands in the manner ~~which is now~~
4 ~~or may hereafter be~~ provided by law for laying out public highways, subject to the approval of
5 the commissioner of school and public lands.

6 Section 113. That § 31-24-1 be amended to read as follows:

7 31-24-1. ~~In~~ If the construction, improvement, and repair of any public highway by the state,
8 or by any county or township, ~~where the work of construction or repair shall be of such character~~
9 ~~as to leave~~ leaves a ditch or elevation along the roadside and ~~thereby to deprive~~ deprives any
10 abutting landowner of easy and convenient access from ~~his~~ the owner's land to ~~such the~~
11 highway, ~~it shall be the duty of the highway authorities~~ authority, except as provided by chapters
12 31-7 and 31-8, ~~to~~ shall provide the owner of ~~such the~~ abutting tract or farm, as well as each
13 church, school, park, playground, or other public building or ground, with one point of easy and
14 convenient access to a public highway by constructing at the public expense, such grades,
15 approaches, bridges, culverts, or other structures as may be necessary for that purpose. ~~The~~
16 However, the provision herein contained authorizing construction of entrances at the expense
17 of the authority having charge of the maintenance ~~shall only apply~~ applies to new construction.

18 Section 114. That § 31-24-2 be amended to read as follows:

19 31-24-2. Approaches required by § 31-24-1 shall be built by the ~~proper authorities~~ highway
20 authority constructing the highway ~~in all cases where~~ if the building of such approach becomes
21 necessary as a result of highway construction, ~~and such approaches shall be built by the county,~~
22 ~~or township charged with the maintenance of such highway in other cases.~~ In all cases any such
23 structure, culvert, bridge, or approach so constructed shall ~~thereafter~~ be maintained and kept in
24 repair by the highway authorities who are charged with the maintenance of ~~such the~~ highway.

Section 115. That § 31-24-3 be amended to read as follows:

31-24-3. The owner, as a matter of right, ~~shall~~ is not ~~be~~ entitled under § 31-24-1 to the construction of more than one farm entrance on any one tract or parcel of land at the expense of the public authority whose duty it is to maintain the highway; ~~but such.~~ However, the owner may at ~~his own~~ the owner's expense upon making application to and receiving written consent of the ~~said~~ authority construct other entrances ~~provided same~~ if the entrances are constructed at the place and in the manner designated by ~~said~~ the authority in its written permit.

Section 116. That § 31-24-4 be amended to read as follows:

31-24-4. Notwithstanding § 31-24-3, if at the time of the construction, improvement, or repair of any public highway the abutting owner has more than one farm entrance to the highway, which entrance has been in reasonably constant use for more than two years prior to ~~said~~ the new construction ~~he~~ the owner shall be furnished a like number of entrances by the authority having charge of ~~said~~ the construction, improvement, or repair, ~~provided same does~~ if the entrances do not materially add to the hazard of public travel on ~~such~~ the highway, ~~and provided further that.~~ However, no owner of property adjoining ~~said~~ the highway ~~shall be~~ is entitled to more than two such entrances at the expense of the authority charged with the maintenance of ~~said~~ the highway, on any one continuous half mile of adjoining property.

Section 117. That § 31-24-5 be amended to read as follows:

31-24-5. No connecting structure or approach described by § 31-24-1 ~~shall~~ may be constructed by the highway authorities upon private property nor beyond the right-of-way line.

Section 118. That § 31-24-6 be amended to read as follows:

31-24-6. ~~Wherever~~ If any public highway as already constructed is of such character as to deprive the owner of the abutting land of easy and convenient access from ~~his~~ the owner's land to the highway, the owner of ~~said~~ the land may, at ~~his own~~ the owner's expense, except as

1 provided by chapters 31-7 and 31-8, construct an entrance to ~~said the~~ abutting land ~~but in no~~
2 ~~case shall said.~~ However, no entrance may be constructed until ~~such the~~ landowner has obtained
3 a permit from the authority whose duty it is to maintain ~~said the~~ highway for the construction
4 of ~~said the~~ entrance, ~~and same must.~~ The entrance shall be constructed in accordance with plans
5 approved by ~~said the~~ authority ~~and said.~~ The authority must shall fix the width and location of
6 ~~said the~~ entrance and ~~same must~~ the entrance shall be constructed in accordance therewith.

7 Section 119. That § 31-24-7 be amended to read as follows:

8 31-24-7. No entrance ~~shall~~ may be so constructed pursuant to § 31-24-6 as to interfere with
9 the proper and necessary drainage of ~~said the~~ highway ~~and no.~~ No portion of the right-of-way
10 of ~~said the~~ highway other than that necessary for ~~said the~~ entrance shall be occupied or used for
11 business purposes.

12 Section 120. That § 31-24-8 be repealed.

13 ~~—31-24-8. Nothing contained in §§ 31-24-1 to 31-24-7, inclusive, shall prejudice the right of~~
14 ~~any person who on March 11, 1941, had a legal right to any entrance to a public highway from~~
15 ~~enforcing same against the proper authorities.~~

16 Section 121. That § 31-24-9 be amended to read as follows:

17 31-24-9. ~~It shall be the duty of all highway overseers, township~~ Township supervisors,
18 county commissioners, ~~transportation department authorities~~ the Department of Transportation,
19 or others having direction of any highway grade ~~to~~ shall provide at every place where such grade
20 crosses an intersecting public highway an easy and accessible approach to such grade on each
21 side thereof upon each such intersecting public highway. ~~Such~~ The approach shall be at least
22 twenty-four feet in width. Any officer or other person charged with the duty of providing
23 approaches at an intersection, as provided in this section, who fails in the performance of ~~such~~
24 the duty, commits a petty offense.

Section 122. That § 31-24-10 be repealed.

~~31-24-10. Any person or persons, referred to in §§ 31-24-11 to 31-24-15, inclusive, as "owner," shall not construct an outdoor drive-in theater adjacent to a highway designated as a portion of the state trunk highway system unless said theater is constructed in such a manner that the reflectorized face of the screen cannot be seen from the highway.~~

Section 123. That § 31-24-11 be repealed.

~~31-24-11. The owner shall provide for sufficient storage space outside the limits of the highway right-of-way as required by the Department of Transportation for patrons waiting to enter the theater in order that the paved surface of the highway, and roadway shoulders, will not be obstructed by said patrons. Such storage space must always provide for at least twenty-five percent of the total capacity of the theater, in cars.~~

Section 124. That § 31-24-12 be repealed.

~~31-24-12. The owner shall limit egress from the theater to the designated exit, and ingress to the theater to the designated entrance or entrances. The owner shall erect and maintain a permanent separation, by means of a fence or permanent barricades in such a manner that vehicles seeking exit will of necessity have to use the exit proper, and cannot use the entrance or entrances for exit.~~

Section 125. That § 31-24-13 be repealed.

~~31-24-13. The owner shall present, to the Department of Transportation, the layout plan for the construction of the theater and approach roads from the theater to the highway, for approval prior to the start of construction. Construction of the theater shall not be started until approval of the said plans, in writing, has been received by the owner from the department.~~

Section 126. That § 31-24-14 be repealed.

~~31-24-14. The Department of Transportation shall furnish and erect, and the owner bear all~~

1 ~~material and labor costs, of flashing signal or signals, if the department requires such~~
2 ~~traffic-control device or devices for the proper safeguarding of highway traffic. If such~~
3 ~~traffic-control device or devices are erected, the owner shall operate it or them properly by~~
4 ~~having it or them turned on to flash at all times when the theater is open for business and turned~~
5 ~~off and locked at all other times. Lock or locks are to be furnished by the owner.~~

6 Section 127. That § 31-24-15 be repealed.

7 ~~— 31-24-15. The Department of Transportation may, at its discretion, furnish and erect two~~
8 ~~turn-table type signposts, upon which will be mounted reflectorized signs reading "drive-in~~
9 ~~theater ahead." Such signs shall be erected a suitable distance from the approach roads to and~~
10 ~~from the theater, and on the right shoulder of the highway facing the traffic approaching the~~
11 ~~theater location. If such signposts and signs are erected, the owner shall turn them to face~~
12 ~~oncoming traffic approaching the theater location during the time that the theater is open for~~
13 ~~business, and to turn them to face away from the highway and lock them in that position at all~~
14 ~~other times. Locks are to be furnished by the owner.~~

15 Section 128. That § 31-24-16 be repealed.

16 ~~— 31-24-16. Sections 31-24-10 to 31-24-15, inclusive, shall not be deemed to apply to any~~
17 ~~outdoor drive-in theater constructed and in operation prior to July 1, 1955.~~

18 Section 129. That § 31-27-2.1 be amended to read as follows:

19 31-27-2.1. The responsibility of a railroad corporation to maintain and keep in repair grade
20 crossings as provided by law ~~shall~~ does not terminate upon the abandonment of the railroad
21 right-of-way or a portion thereof; ~~but the.~~ The responsibility ~~shall continue~~ continues until the
22 highway is restored to a usable condition. ~~Such~~ The maintenance responsibility ~~shall~~ does not
23 terminate with the disposal of the abandoned railroad right-of-way or the dissolution of the
24 railroad corporation but ~~shall pass~~ passes to the transferee of the abandoned railroad

1 right-of-way or the successors to the railroad corporation.

2 Section 130. That § 31-27-11 be amended to read as follows:

3 31-27-11. ~~When~~ If no right-of-way is needed for the building of a subway or overhead
4 crossing on a state or county highway, the state or county shall do the necessary grading,
5 approaching, and leading from ~~such~~ the overhead or subway undercrossing.

6 Section 131. That § 31-27-17 be amended to read as follows:

7 31-27-17. ~~When~~ If a new right-of-way is necessary for the building of a subway or overhead
8 crossing on a state or county highway, the state or county shall pay for the right-of-way and
9 necessary grading, approaching, and leading from ~~such~~ the overhead crossing or subway
10 undercrossing.

11 Section 132. That § 31-27-18 be amended to read as follows:

12 31-27-18. The clearance or overhead room of any subway or undercrossing ~~shall~~ may not
13 be less than fifteen feet from top of finished grade to bottom of sills of overhead track or trusses.
14 The width or clear roadway of ~~such~~ the subway or undercrossing ~~shall~~ may not be less than
15 twenty-four feet, clear roadway. The approaches to ~~such~~ the undercrossing or overhead crossing
16 shall be straight and under no circumstances ~~shall~~ may these crossings contain curves.

17 Section 133. That § 31-27-20 be amended to read as follows:

18 31-27-20. A "railroad right-of-way," consists not only of that strip of land, usually one
19 hundred feet wide, over which the main track is laid but ~~such~~ the adjacent extra width of land
20 as may be necessary and useful for cuts, embankments, ditches for change of location of
21 watercourses, and other works of a railroad, appropriate and necessary for railroad purposes.

22 Section 134. That § 31-27-21 be amended to read as follows:

23 31-27-21. A "railroad and highway crossing", usually referred to as a "railroad crossing,"
24 ~~shall include~~ includes all that part of a public highway or private road extending from the point

1 where it touches the property line of the right-of-way of the railroad company on one side until
2 it passes over and beyond the railroad company's property line or right-of-way on the opposite
3 side of the right-of-way.

4 Section 135. That § 31-28-1 be amended to read as follows:

5 31-28-1. The Department of Transportation shall keep the various lines of highways
6 comprising the state trunk highway system, including the connecting streets in municipalities,
7 distinctly marked with some standard design placed on convenient objects along ~~such~~ the routes.
8 ~~Such~~ The design shall be uniform on all parts of the trunk highway system ~~except that~~.
9 However, the numbers shall ~~occur therein corresponding~~ correspond with the numbers given
10 the various routes by the department, ~~which~~. The numbers shall coincide with the numbers
11 placed on the official map or maps issued by the department. No similar design ~~shall~~ may be
12 used for marking other routes in South Dakota.

13 Section 136. That § 31-28-2 be amended to read as follows:

14 31-28-2. ~~Whenever~~ If, in the marking or numbering of any state trunk highway, there is a
15 division of ~~said~~ the highway into two branches, there shall be erected along each of ~~said~~ the
16 highways at the initial point of separation a directional sign indicating the general direction or
17 course of the respective highways as to whether the course of ~~said~~ the highway is east, west,
18 north, or south as the case may be.

19 Section 137. That § 31-28-6 be amended to read as follows:

20 31-28-6. The public board or officer whose duty it is to repair or maintain any public
21 highway shall erect and maintain at points in conformity with standard uniform traffic control
22 practices on each side of any sharp turn, blind crossing, or other point of danger on such
23 highway, except railway crossings marked as required in § 31-28-7, a substantial and
24 conspicuous warning sign, ~~which~~. The sign shall be on the right-hand side of the highway

1 approaching such point of danger. ~~A violation~~ Failure to comply with the provisions of this
2 section is a Class 1 misdemeanor.

3 Section 138. That § 31-28-7 be amended to read as follows:

4 31-28-7. The public board or officer whose duty it is to repair or maintain any public
5 highway shall erect and maintain at points in conformity with standard uniform traffic control
6 practices on each side of the place at which a highway crosses an operational railway track or
7 right-of-way, except within the limits of municipalities, a standard railroad advance warning
8 sign, ~~such~~. The sign to shall be on the right-hand side of the highway approaching such crossing;
9 and at a distance from ~~such~~ the crossing as the ~~Department of Transportation~~ department or
10 other controlling body shall direct. Any legally abandoned or nonoperational track which is
11 crossed by a public highway and at which the crossing has been properly marked as a railway
12 grade crossing may be marked with a supplemental sign, meeting uniform traffic control
13 practices, to inform drivers of vehicles identified in § 32-29-5 that a stop is not required at that
14 crossing. ~~A violation~~ Failure to comply with the provisions of this section is a Class 1
15 misdemeanor.

16 Section 139. That § 31-28-10 be amended to read as follows:

17 31-28-10. The ~~Department of Transportation is hereby authorized to~~ department may
18 classify, designate, and mark both intrastate and interstate highways lying within the boundaries
19 of this state and to provide a uniform system of marking and signing ~~such~~ the highways under
20 the jurisdiction of this state, ~~and such~~. The system of marking and signing shall correlate with
21 and so far as possible conform to the system adopted in other states.

22 Section 140. That § 31-28-14 be amended to read as follows:

23 31-28-14. No unauthorized person ~~shall~~ may erect or maintain upon any highway, any
24 warning or direction sign, marker, signal, or light in imitation of any official sign, marker,

1 signal, or light erected under the provisions of this chapter, ~~and no.~~ No person shall may erect
2 or maintain upon any highway any traffic or highway sign or signal bearing thereon any
3 commercial advertising. Nothing in this section ~~shall be construed to prohibit~~ prohibits the
4 erection or maintenance of ~~signs, markers, or signals~~ sign, marker, or signal bearing thereon the
5 name of an organization authorized to erect the ~~same~~ sign, marker, or signal by the ~~Department~~
6 ~~of Transportation~~ department or any local authority as defined in this chapter.

7 Section 141. That § 31-28-16 be amended to read as follows:

8 31-28-16. The ~~Department of Transportation~~ department and boards of county
9 commissioners ~~are authorized to~~ may designate certain state and county highways, or portions
10 thereof, as preferential or arterial highways ~~and the.~~ The traffic upon any ~~such~~ highway so
11 designated shall have the right-of-way. Failure to comply with the provisions of this section is
12 a Class 2 misdemeanor.

13 Section 142. That § 31-28-17 be amended to read as follows:

14 31-28-17. Except within the limits of a municipality, the ~~Department of Transportation~~
15 department and county commissioners may designate any hazardous intersection as a stop
16 intersection, and designate any railroad crossing as a stop crossing. ~~Such~~ The intersections and
17 railroad crossings shall be designated by placing a stop sign at the point of stop, ~~such.~~ The sign
18 to be preceded by a warning sign so as to give warning of stop. Failure to stop at the point of
19 stop of such intersections and railroad crossings is a Class 2 misdemeanor.

20 Section 143. That § 31-28-19 be amended to read as follows:

21 31-28-19. No person ~~shall~~ may place, maintain, or display upon or in view of any highway
22 any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or
23 resembles an official traffic control device or railroad sign or signal, ~~or~~ which attempts to direct
24 the movement of traffic, or which hides from view or interferes with the effectiveness of any

official traffic control device or any railroad sign or signal. A violation of this section is a Class 2 misdemeanor.

Section 144. That § 31-28-20 be amended to read as follows:

31-28-20. No person ~~shall~~ may place or maintain nor ~~shall~~ may any public authority permit upon any highway any traffic sign or signal bearing ~~thereon~~ any commercial advertising. A violation of this section is a Class 2 misdemeanor.

Section 145. That § 31-28-21 be amended to read as follows:

31-28-21. Sections 31-28-19 and 31-28-20 ~~shall not be deemed to~~ do not prohibit the erection upon private property adjacent to highways of signs giving useful directional information and of a type that cannot be mistaken for official signs.

Section 146. That § 31-28-25 be amended to read as follows:

31-28-25. Nothing in §§ 31-28-19 to 31-28-24, inclusive, ~~shall be deemed to limit, or encroach upon,~~ limits the existing authority of South Dakota law enforcement officers in the performance of their duties involving traffic light control.

Section 147. That § 31-28-29 be amended to read as follows:

31-28-29. Nothing in this chapter ~~may be deemed to limit or encroach upon~~ limits the practice and activity of a professional licensed pursuant to chapter 36-18A, performing his or her professional duties.

Section 148. That § 31-29-1 be amended to read as follows:

31-29-1. It ~~shall be~~ is a Class 2 misdemeanor for any person to erect or construct along the streets or highways adjoining any cemetery, or within three hundred feet of any cemetery, any billboard, advertising sign, or unsightly object without first obtaining the written consent of the proper officers of the municipality, or township, and of the proper officers or persons having charge and control of such cemetery, ~~but such~~. However, the street or highway may be marked

1 to designate an automobile route, or for other public purposes, if ~~the same is~~ done in a neat and
2 attractive manner.

3 Section 149. That § 31-29-2 be amended to read as follows:

4 31-29-2. It ~~shall be~~ is a Class 2 misdemeanor for any person, corporation, or association, to
5 place or maintain, or cause to be placed or maintained, any advertising sign, device, display,
6 building, or structure on any of the public highways of the state, ~~and except.~~ Except within
7 municipalities, it ~~shall be~~ is a Class 2 misdemeanor for any person, corporation, or association
8 to place or maintain, or cause to be placed or maintained, any device, display, or obstruction to
9 vision, along or adjacent to any of the public highways of the state where ~~such~~ the device,
10 display, or obstruction to vision, constitutes a hazard to highway traffic at any main crossing or
11 intersection, horizontal or vertical curve or railroad crossing, as deemed hazardous by the
12 authority in charge of the maintenance of ~~such highways~~ the highway.

13 Section 150. That § 31-29-8 be repealed.

14 ~~— 31-29-8. The Transportation Commission may provide that in lieu of private signs or~~
15 ~~structures advertising a privately owned attraction within such vicinity, the Department of~~
16 ~~Transportation itself shall in such specified area erect and maintain advertising signs or~~
17 ~~structures which will give directions, and other aids as to the location of all privately owned~~
18 ~~attractions within five miles from the location of such advertising sign or structure. In such~~
19 ~~locations the department in providing signs for such advertising or privately owned attractions~~
20 ~~must properly advertise any and all of such attractions which are privately owned, when so~~
21 ~~requested to so advertise by the owner or operator of such privately owned attraction within a~~
22 ~~radius of five miles from such advertising sign or structure.~~

23 Section 151. That § 31-29-12 be amended to read as follows:

24 31-29-12. The State Department of Transportation is ~~hereby authorized to~~ may acquire and

1 improve strips of land necessary for acquisition of publicly owned and controlled rest ~~and~~
2 ~~recreation~~ areas and sanitary and other facilities within or adjacent to the highway right-of-way
3 reasonably necessary to accommodate the traveling public; ~~provided, that.~~ However, the
4 Transportation Commission ~~shall~~ may not expend any funds for the acquisition, construction
5 or improvement of hotels, motels, restaurants, or other accommodations of like nature.

6 Section 152. That § 31-29-13 be amended to read as follows:

7 31-29-13. The interest in any land authorized to be acquired and maintained under § 31-29-
8 12 may be the fee simple or any lesser interest, as determined by the ~~Department of~~
9 ~~Transportation~~ department to be reasonably necessary to accomplish the purposes set forth in
10 § 31-29-14. ~~Such~~ The acquisition may be by gift, purchase, exchange, or by condemnation
11 pursuant to the procedures provided by either §§ 31-19-1 to 31-19-22, inclusive, for the
12 condemnation of real property by the ~~Department of Transportation~~ department, or chapter 21-
13 35.

14 Section 153. That § 31-29-14 be repealed.

15 ~~31-29-14. The purposes of §§ 31-29-12 and 31-29-13 are:~~

16 ~~(1) To promote the safety, convenience, and enjoyment of travel on, and protection of~~
17 ~~the public investment in, highways of this state;~~

18 ~~(2) In order that the state be entitled to receive and expend the three percentum~~
19 ~~nonmatching funds from the federal government pursuant to the provisions of Title~~
20 ~~23, United States Code, "Highways."~~

21 Section 154. That § 31-29-59 be amended to read as follows:

22 31-29-59. In order to provide information to the traveling public, the ~~Division~~ Office of
23 Tourism ~~is hereby authorized to~~ may maintain maps and ~~to~~ permit informational directories and
24 advertising pamphlets to be made available at safety rest areas, and ~~to~~ establish information

centers at safety rest areas for the purpose of informing the public of places of interest within the state and providing ~~such~~ other information as may be considered desirable.

Section 155. That § 31-29-60 be amended to read as follows:

31-29-60. Despite any provision in §§ 31-29-17 to 31-29-48, inclusive, to the contrary, no sign, display, or device ~~shall~~ may be required to be removed unless at the time of removal there are sufficient funds appropriated and available to pay the affected parties the just compensation required by §§ 31-29-50 to 31-29-56, inclusive, after due allowance for any contribution which may be available from the federal government, ~~provided that~~ and if the latter contribution is available for immediate payment.

Section 156. That § 31-29-63 be amended to read as follows:

31-29-63. No outdoor advertising ~~shall~~ may be erected within six hundred sixty feet of the nearest edge of the right-of-way and visible from the main-traveled way or beyond six hundred sixty feet of the nearest edge of the right-of-way visible from the main-traveled way, located outside an urban area and erected with the purpose of its message being read from the main-traveled way of the interstate or primary systems except the following:

- (1) Directional and official signs and notices, as defined by subdivision § 31-29-62(6);
- (2) Signs, displays, and devices advertising the sale or lease of property upon which they are located;
- (3) Signs, displays, and devices advertising activities conducted on the property upon which they are located;
- (4) Signs, displays, and devices located in areas which are designated industrial or commercial by local authority as provided by Title 11 and within six hundred sixty feet of an interstate or primary highway;
- (5) Signs, displays, and devices located in unzoned industrial or commercial areas as

hereafter provided by this chapter and within six hundred sixty feet of an interstate or primary highway;

(6) Signs, including both official public, and private business signs, for which the ~~board~~ department shall make a uniform charge, giving specific information in the interest of the traveling public located within the rights-of-way of the interstate and primary systems in areas at appropriate distances from interchanges or intersections on such systems, the location of which shall be determined by the ~~Department of Transportation~~ department, any provision of chapter 31-28 or of this chapter to the contrary notwithstanding;

(7) Signs lawfully in existence on October 22, 1965, determined by the State Transportation Commission to be landmark signs, including signs on farm structures or natural surfaces, of historic or artistic significance, the preservation of which would be consistent with the purposes of this chapter;

(8) Warning signs placed by public utilities for the protection of underground utility cables;

(9) Signs exempt from removal in certain defined areas that are in the specific interest of the traveling public and have qualified for an economic hardship exemption pursuant to § 31-29-80; or

(10) Signs, displays, and devices advertising the distribution of nonprofit organizations of free coffee to individuals traveling on the interstate system or the primary system. For the purposes of this subdivision, the term, free coffee, ~~shall include~~ includes coffee for which a donation may be made, but is not required.

Section 157. That § 31-29-65 be amended to read as follows:

31-29-65. The standards and criteria for size of outdoor advertising authorized to be erected

1 and maintained in zoned or unzoned commercial or industrial areas adjacent to the interstate and
2 primary highway systems are:

- 3 (1) The maximum area of any one sign facing any one direction shall be twelve hundred
4 square feet but which in no instance ~~shall~~ may exceed thirty feet in height and sixty
5 feet in length including border and trim, but not supports or apron; and
6 (2) The maximum size limitations provided in subdivision (1) of this section ~~shall~~ apply
7 to each side of a sign structure; and signs placed back-to-back, side-by-side, or in
8 V-type construction with no more than two displays to each facing. Such sign
9 structure shall be considered as one sign.

10 Section 158. That § 31-29-67 be amended to read as follows:

11 31-29-67. The standards and criteria for spacing of outdoor advertising authorized to be
12 erected and maintained in zoned or unzoned commercial or industrial areas adjacent to the
13 interstate and primary highway systems are:

- 14 (1) Within municipalities signs shall conform to any applicable building codes and
15 ordinances relating to spacing except that no such sign ~~shall~~ may be located closer
16 than one hundred feet from an existing off-premises sign on a state nonlimited access
17 primary highway and no closer than five hundred feet from any existing off-premise
18 sign on a limited access primary highway or on an interstate highway;
19 (2) Outside of municipalities no off-premise sign ~~shall~~ may be erected adjacent to a
20 limited primary access highway or interstate highway closer than five hundred feet,
21 nor adjacent to a nonlimited access highway closer than three hundred feet, to an
22 existing off-premise sign;
23 (3) Neither inside nor outside of municipalities ~~shall~~ may any sign be erected or
24 maintained in such a location as to prevent the driver of a vehicle from having an

effective view of any official traffic control device applicable to ~~him~~ the driver or to approaching, intersecting, or merging traffic and highways within five hundred feet of such sign; and

(4) Double-faced, back-to-back, and V-type signs shall be considered as a single sign structure for purposes of these usages.

The above spacing provisions do not apply to structures separated by buildings or other obstructions in such a manner that only one sign facing located within the above spacing distance is visible from the highway at any one time. The minimum distance between structures shall be measured along the nearest edge of the pavement between points directly opposite the signs along each side of the highway and ~~shall apply~~ applies only to structures located on the same side of the highway.

Section 159. That § 31-29-68 be amended to read as follows:

31-29-68. ~~Whenever~~ If a ~~bona fide~~ local zoning authority recognized in Title 11 has made a determination of customary use, concerning ~~such~~ the size, lighting, and spacing considerations, ~~such~~ the determination shall be in lieu of controls in §§ 31-29-65 to 31-29-67, inclusive.

Section 160. That § 31-29-69 be amended to read as follows:

31-29-69. Nothing in §§ 31-29-61 to 31-29-83, inclusive, ~~shall be construed to authorize~~ authorizes any local authority to prohibit outdoor advertising throughout its jurisdiction, ~~but all~~. However, any such regulation and control shall be reasonable and reasonably related to the needs of the business community to adequately and properly advertise its goods and services of benefit to the traveling public.

Section 161. That § 31-29-72.1 be repealed.

~~31-29-72.1. The secretary of the Department of Transportation shall seek agreements with~~

1 ~~the United States secretary of transportation as to matters specified for agreement in 23 U.S.C.~~
2 ~~131 as enacted and amended on July 1, 1979. Such agreements may not vary from the controls~~
3 ~~established pursuant to this chapter.~~

4 ~~— If such agreements cannot be achieved, or if there is a judicial determination to withhold~~
5 ~~funds from the state, the attorney general of the State of South Dakota shall promptly initiate~~
6 ~~proceedings under the provisions of 23 USC 131.~~

7 Section 162. That § 31-29-80 be repealed.

8 ~~— 31-29-80. The state secretary of transportation shall promptly develop programs which will~~
9 ~~assure that the necessary directional information about facilities and businesses providing goods~~
10 ~~and services in the interest of the traveling public will continue to be available to motorists,~~
11 ~~especially tourists who are strangers to this state.~~

12 ~~— The secretary of the Department of Transportation shall petition for economic hardship~~
13 ~~exemptions for those tourist oriented directional signs in the specific interest of the traveling~~
14 ~~public in a manner conforming with the requirements of 23 U.S.C. 131(o) and 23 CFR 750~~
15 ~~Subpart (E) in effect on July 1, 1979.~~

16 Section 163. That § 31-29-83 be amended to read as follows:

17 31-29-83. Nothing in §§ 31-29-61 to 31-29-83, inclusive, authorizes the state or any political
18 subdivision to operate or maintain, directly or indirectly, any commercial activity in any safety
19 rest area or information center. This section does not apply to a vending facility vending soft
20 drinks only operated for the benefit of visually impaired vendors licensed by the Division of
21 Service to the Blind and Visually Impaired.

22 Section 164. That § 31-30-2 be amended to read as follows:

23 31-30-2. ~~As used~~ Terms in this chapter mean:

24 (1) ~~The term, junk, shall mean~~ "Junk," old or scrap copper, brass, rope, rags, batteries,

1 paper, trash, rubber debris, waste, or junked, dismantled, or wrecked automobiles, or
2 parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material;

3 (2) ~~The term, automobile graveyard, shall mean~~ "Automobile graveyard," any
4 establishment or place of business which is maintained, used, or operated, for storing,
5 keeping, buying, or selling wrecked, scrapped, ruined, or dismantled motor vehicles
6 or motor vehicle parts;

7 (3) ~~The term, junk yard, shall mean~~ "Junk yard," an establishment or place of business
8 ~~which~~ that is maintained, operated, or used for storing, keeping, buying, or selling
9 junk, or for the maintenance or operation of an automobile graveyard, ~~and the.~~ The
10 term ~~shall include~~ includes garbage dumps and sanitary fills;

11 (4) "Interstate system," ~~means~~ that portion of the national system of interstate and
12 defense highways located within this state, as officially designated, or as may
13 hereafter be so designated, by the ~~State Department of Transportation~~ department,
14 and approved by the United States secretary of transportation, pursuant to the
15 provisions of Title 23, United States Code, ~~"Highways";~~

16 (5) "Primary system," ~~means~~ that portion of connected main highways, as officially
17 designated, or as may hereafter be so designated, by the department and approved by
18 the United States secretary of transportation pursuant to the provisions of Title 23,
19 United States Code, ~~"Highways";~~

20 (6) "Department," ~~means~~ the South Dakota Department of Transportation.

21 Section 165. That § 31-30-6 be amended to read as follows:

22 31-30-6. ~~When~~ If the ~~Department of Transportation~~ department determines that the
23 topography of the land adjoining the highway ~~will~~ does not permit adequate screening of ~~such~~
24 ~~junk yards~~ a junk yard or the screening of ~~such junk yards~~ the junk yard would not be

1 economically feasible, the department ~~shall have the authority to~~ may acquire by gift, purchase,
2 exchange, or condemnation in the same manner as it ~~is now authorized or hereafter may be~~
3 ~~authorized~~ may by law to acquire ~~such~~ property or property rights, ~~such interests~~ interest in ~~lands~~
4 ~~as may be~~ any land necessary to secure the relocation, removal, or disposal of the junk yards;
5 ~~and to.~~ The department may pay for the costs of relocation, removal, or disposal, ~~thereof~~ of the
6 junkyard.

7 Section 166. That § 31-30-7 be amended to read as follows:

8 31-30-7. ~~When~~ If the ~~Department of Transportation~~ department determines that it is in the
9 best interest of the state ~~it,~~ the department may acquire ~~such lands~~ any land, or interests in ~~lands~~
10 land, as may be necessary to provide adequate screening of ~~such a junk yards~~ yard.

11 Section 167. That § 31-30-8 be amended to read as follows:

12 31-30-8. The ~~Department of Transportation~~ department ~~shall have the authority to~~ may
13 acquire by gift, purchase, exchange, or condemnation from the owner, ~~such interests in lands~~
14 ~~as may be~~ interest in any land necessary to secure the relocation, removal, or disposal of the
15 following junk yards ~~when~~ if it determines that the topography of the land adjoining the highway
16 ~~will~~ does not permit adequate screening of ~~such the junk yards~~ yard or the screening of ~~such the~~
17 junk yards yard would not be practical:

- 18 (1) Those lawfully in existence on October 22, 1965;
19 (2) Those lawfully along any highway made a part of the interstate or primary system on
20 or after October 22, 1965, and before January 1, 1968; and
21 (3) Those lawfully established on or after January 1, 1968.

22 Section 168. That § 31-30-9 be amended to read as follows:

23 31-30-9. The ~~Department of Transportation~~ department may apply for an injunction to abate
24 any nuisance arising from a violation of the provisions of this chapter, ~~or of rules and~~

1 ~~regulations promulgated hereunder.~~

2 Section 169. That § 31-30-10 be amended to read as follows:

3 31-30-10. The ~~Department of Transportation is hereby authorized to~~ department may expend
4 funds for the purposes of regulation and control of junk yards adjacent to the interstate and
5 primary systems in South Dakota from any highway funds under the jurisdiction of the
6 ~~Department of Transportation~~ department.

7 Section 170. That § 31-30-11 be amended to read as follows:

8 31-30-11. The ~~Department of Transportation is hereby authorized to~~ department may enter
9 into agreements with the United States secretary of transportation as provided by Title 23,
10 United States Code, "Highways," relating to the control of junk yards in areas adjacent to the
11 interstate and primary systems, and to take action in the name of the state to comply with the
12 terms of ~~such~~ any agreement.

13 Section 171. That § 31-30-12 be amended to read as follows:

14 31-30-12. Nothing in this chapter ~~shall be construed to abrogate or affect~~ abrogates or affects
15 the provisions of any lawful ordinance, regulation, or resolution, which ~~are~~ is more restrictive
16 than the provisions of this chapter.

17 Section 172. That § 31-30-13 be repealed.

18 ~~— 31-30-13. If any provision of this chapter or the application thereof to any person or~~
19 ~~circumstance is held invalid, such invalidity shall not affect other provisions or applications of~~
20 ~~the chapter which can be given effect without the invalid provision or application, and to this~~
21 ~~end the provisions of this chapter are declared to be severable.~~

22 Section 173. That § 31-30-14 be repealed.

23 ~~— 31-30-14. This chapter may be cited as the "Junk Yard Control Act."~~

24 Section 174. That § 31-31-4 be amended to read as follows:

1 31-31-4. The Department of Transportation ~~and boards referred to in § 31-31-1 shall have~~
2 ~~the power to~~ and any board of county commissioners may employ the necessary assistance to
3 carry out the necessary provisions of this chapter or may have the work done by the employees
4 regularly employed by ~~such the department or boards~~ the board. The ~~said department and boards~~
5 ~~shall have power to~~ the board may fix the compensation and expenses of persons employed by
6 them for the purpose of carrying out the provisions of this chapter, ~~and they~~. The department and
7 board may be paid out of any fund or funds available to ~~such the department or boards~~ board for
8 the maintenance and repair of ~~such highways~~ the highway.

9 Section 175. That § 31-32-13 be amended to read as follows:

10 31-32-13. It is a Class 2 misdemeanor for any person to conduct an establishment or
11 maintain a business the nature of which requires the use by patrons or customers of any part of
12 the right-of-way of a state trunk highway while the patron or customer is receiving or
13 discharging any merchandise or commodity at the place of business. This section does not apply
14 to streets within the limits of municipalities which are under the control and regulation of the
15 municipality. This section does not apply to a vending facility vending soft drinks only operated
16 for the benefit of visually impaired vendors licensed by the Division of Service to the Blind and
17 Visually Impaired.

18 Section 176. That § 31-32-14 be amended to read as follows:

19 31-32-14. Section 31-32-13 ~~shall~~ does not, in any way, interfere with the rights of any
20 person to use such means of ingress or egress to a place of business as are approved as to safety
21 and design by the Department of Transportation and as are reasonably useful for the business
22 conducted by ~~said~~ the person on privately owned property.

23 Section 177. That § 31-32-15 be amended to read as follows:

24 31-32-15. The conducting of an establishment or maintaining of a business in violation of

1 § 31-32-13 ~~shall constitute~~ constitutes a public nuisance and the ~~Department of Transportation~~
2 ~~is hereby empowered to~~ department may bring an action to abate the ~~same~~ nuisance or may
3 fence the right-of-way of ~~such~~ the state trunk highway to prevent ~~such~~ the unlawful use thereof.

4 Section 178. That § 31-32-16 be amended to read as follows:

5 31-32-16. Any tree, structure, or other object, ~~which~~ that, because of its location and because
6 of its age, infirmity, angle of stance, or other condition, is likely to fall, in whole or in part, upon
7 any public highway within the State of South Dakota, so that any person using ~~such~~ the highway
8 at the time of ~~such~~ the fall might be injured thereby, ~~shall be and~~ is a public nuisance against
9 which the remedies prescribed by § 21-10-5 may be employed.

10 Section 179. That § 31-32-17 be amended to read as follows:

11 31-32-17. ~~Whenever it shall be made to appear~~ If it appears to the satisfaction of any
12 department, board, or governing body charged with the duty of the maintenance of any highway
13 in this state, that a nuisance as defined by § 31-32-16 exists along any highway in respect to
14 which highway ~~said~~ the department, board, or governing body has the duty of maintaining, it
15 ~~shall be their duty to proceed to~~ the department, board, or governing body shall negotiate with
16 the owner of the property on which ~~said~~ the nuisance exists for the voluntary abatement of ~~same~~
17 the nuisance.

18 Section 180. That § 31-32-18 be amended to read as follows:

19 31-32-18. ~~In case~~ If the owner of the property referred to in § 31-32-17 or of ~~said~~ the
20 nuisance refuses or fails to voluntarily abate ~~said~~ the nuisance within a reasonable time, ~~it shall~~
21 ~~then be the duty of said~~ the department, board, or governing body, ~~to~~ shall bring a civil action
22 on behalf of the public, in the proper court, to abate ~~said~~ the nuisance. ~~In case~~ If abatement is
23 ordered in ~~said~~ the suit, the cost of ~~such~~ the action shall be charged against the owner of the land
24 on which ~~said~~ the nuisance was maintained and against whom the action in abatement was

1 brought.

2 Section 181. That § 32-22-34 be repealed.

3 ~~—32-22-34. For the purpose of providing adequate transportation facilities for municipalities~~
4 ~~and villages, hereinafter referred to as communities, which previously have been served by~~
5 ~~railroads that have been abandoned, the Department of Transportation, upon application after~~
6 ~~hearing and upon reasonable notice, may permit the use of motor vehicles, tractor-trailers, or~~
7 ~~tractor semitrailers of greater length, carrying capacity, and weight, with and without load, than~~
8 ~~is authorized by law.~~

9 Section 182. That § 32-22-35 be repealed.

10 ~~—32-22-35. No permit shall be granted under § 32-22-34 until the Department of~~
11 ~~Transportation shall be satisfied from the testimony produced at the hearing that the vehicle~~
12 ~~proposed to be used is so constructed and has a sufficient number of wheels equipped with~~
13 ~~pneumatic tires to spread the weight over the highway in such manner as not to cause undue~~
14 ~~injury to the roadbed, hard-surfacing, or pavement, as the case may be.~~

15 Section 183. That § 32-22-36 be repealed.

16 ~~—32-22-36. The operators of vehicles authorized by § 32-22-34 are hereby declared common~~
17 ~~carriers and, except where in conflict with §§ 32-22-34 to 32-22-37, inclusive, shall be subject~~
18 ~~to the same law, rules, and regulations as other motor carriers for hire. Such motor carriers shall~~
19 ~~pick up and deliver commodities only at communities into or through which such abandoned~~
20 ~~railroad operated and at such railway point or points as may be designated by the Department~~
21 ~~of Transportation.~~

22 Section 184. That § 32-22-37 be repealed.

23 ~~—32-22-37. The Department of Transportation may limit the speed of the motor vehicle or~~
24 ~~vehicles authorized under § 32-22-34 and by order designate the highway or highways over~~

1 ~~which the same may move.~~

2 Section 185. That § 32-22-43 be amended to read as follows:

3 32-22-43. The issuance of any permit provided for in this chapter or the rules and
4 ~~regulations~~ adopted for issuance of ~~same will in no manner~~ the permit do not relieve the holder
5 of ~~said~~ the permit from liability for damages caused to a highway by any movement under ~~said~~
6 the permit.

7 Section 186. That § 32-22-49 be amended to read as follows:

8 32-22-49. ~~When~~ Terms used in §§ 32-22-47 and 32-22-48 ~~the term~~ mean:

9 (1) "Person," ~~means~~ any person, firm, association, or corporation;

10 (2) "Vehicle," ~~means~~ any motor vehicle, truck, trailer, semitrailer, or tractor.

11 Section 187. That § 32-22-52 be amended to read as follows:

12 32-22-52. It is a Class 2 misdemeanor for any person to drive or move, or for the owner to
13 cause or knowingly permit to be driven or moved, on any highway any vehicle or vehicles, of
14 a size or weight exceeding the limitations stated in this chapter, or the rules ~~and regulations~~ of
15 the Transportation Commission or county commission adopted pursuant ~~thereto~~ to this chapter.

16 Section 188. That § 49-16B-5 be amended to read as follows:

17 49-16B-5. All appointments to the ~~South Dakota Railroad Authority~~ authority shall be made
18 for a four-year term. Each member's term of office shall expire on the appropriate third Monday
19 in January, but ~~he~~ the member shall continue to hold office until ~~his~~ a successor is appointed and
20 qualified. Any vacancy in the authority shall be filled by appointment in the manner prescribed
21 for appointments for full terms. A majority of the authority ~~shall be~~ is required to take official
22 action. ~~In making the initial appointments the Governor shall designate two members to serve~~
23 ~~four years, two members to serve three years, two members to serve two years and one member~~
24 ~~to serve one year. Any fraction of a year in the initial appointments shall be considered a full~~

1 ~~year. Thereafter, all appointments shall be made for a four-year term.~~

2 Section 189. That § 49-16B-6 be amended to read as follows:

3 49-16B-6. Each member shall, before entering upon the duties of ~~his~~ office, take and
4 subscribe the constitutional oath of office and give bond in the penal sum of twenty-five
5 thousand dollars conditioned upon the faithful performance of ~~his~~ the member's duties. The oath
6 and bond shall be filed in the Office of the Secretary of State.

7 Section 190. That § 49-16B-8 be amended to read as follows:

8 49-16B-8. The authority ~~shall have the power to~~ may employ agents and employees
9 necessary to carry out the duties and purposes of the authority.

10 Section 191. That § 49-16B-11 be amended to read as follows:

11 49-16B-11. The authority shall obtain estimates of the cost of any project it deems necessary
12 or convenient and shall formulate and recommend a list of projects. The authority shall present
13 a report including its recommendations, proposed projects and estimated costs to the Legislature
14 not later than the first day of November immediately preceding the convening of ~~each~~ a regular
15 session of the Legislature if the authority has any recommendation or proposed project. In
16 recommending projects to be undertaken, the authority may not deviate from the priority listing
17 of projects submitted by the Department of Transportation.

18 Section 192. That § 49-16B-12 be amended to read as follows:

19 49-16B-12. Any department, board, commission, agency, or officer of the state may transfer
20 jurisdiction of or title to any property under its or ~~his~~ the officer's control to the authority ~~when~~
21 ~~such~~ if the transfer is approved, in writing, by the Governor, as being advantageous to the state.

22 Section 193. That § 49-16B-13 be amended to read as follows:

23 49-16B-13. To accomplish projects of the kind listed in § 49-16B-10 the authority ~~shall have~~
24 ~~the power to~~ may acquire by purchase, condemnation, including the power of condemnation in

1 accordance with chapters 21-35 and 31-19, including the eminent domain and declaration of
2 taking sections therein, gift or otherwise ~~and to~~. The authority may construct, maintain, and
3 equip railroad facilities as the Legislature by law declares to be in the public interest. In the
4 course of such activities, the authority ~~shall have the power to~~ may acquire property of any kind
5 and description, whether real, personal or mixed, by gift, purchase, or otherwise. ~~It~~ The authority
6 may also acquire real estate of the State of South Dakota controlled by any officer, department,
7 board, commission, or other agency of the state, the jurisdiction of which is transferred by ~~such~~
8 the officer, department, board, commission, or other agency, to the authority.

9 Section 194. That § 49-16B-13.1 be amended to read as follows:

10 49-16B-13.1. ~~The South Dakota Railroad Authority must~~ authority shall receive approval
11 for all proposed expenditures from the South Dakota State Railroad Board and the Governor.

12 Section 195. That § 49-16B-13.2 be amended to read as follows:

13 49-16B-13.2. ~~It shall be the duty of the~~ The Department of Transportation, in accord with
14 its obligation to maintain certain public highways under § 31-5-1, ~~to~~ shall maintain the public
15 railroad property purchased and owned by the state pursuant to chapter 49-16B.

16 Section 196. That § 49-16B-20 be amended to read as follows:

17 49-16B-20. The authority ~~shall have the power~~ may, in the event of nonpayment of rents
18 reserved in such leases, ~~to~~ maintain and operate ~~such~~ the facilities and sites or execute leases
19 ~~thereof~~ of the facilities and sites to others for any suitable purposes.

20 Section 197. That § 49-16B-25 be amended to read as follows:

21 49-16B-25. Bonds or notes of the authority shall be authorized by resolution of the authority
22 and may be issued under the resolution or under a trust indenture or other security agreement,
23 in one or more series, ~~and~~. The bonds or notes shall bear such date or dates, mature at such time
24 or times, bear interest at such rate or rates, be in such denominations, be in such form, either

1 coupon or registered, carry such conversion, exchange and registration privileges, have such
2 rank or priority, be executed in such manner, be payable in such medium of payment at such
3 place or places within or outside the state, be subject to such terms of redemption with or
4 without premium, and contain or be subject to such other terms as the resolution, trust indenture
5 or security agreement may provide, ~~and shall~~. The bonds or notes may not be restricted by any
6 other law limiting amounts, maturities, interest rates, or other terms or obligations of public
7 agencies or private persons.

8 Section 198. That § 49-16B-29 be amended to read as follows:

9 49-16B-29. Nothing in this chapter ~~shall be construed to authorize~~ authorizes the authority
10 or any department, board, commission, or other agency to create an obligation of the State of
11 South Dakota within the meaning of the Constitution or statutes of South Dakota.

12 Section 199. That § 49-16B-30 be amended to read as follows:

13 49-16B-30. The provisions of this chapter and of any resolution or proceeding authorizing
14 the issuance of bonds ~~shall constitute~~ constitutes a contract with the holders of such bonds. The
15 provisions ~~thereof shall be~~ are enforceable either in law or in equity, by suit, action in
16 mandamus or other proceeding in any court of competent jurisdiction to enforce and compel the
17 performance of any duties required by this chapter or any resolution or proceeding authorizing
18 the issuance of ~~such~~ the bonds, including the establishment of sufficient charges, fees, or rentals
19 and the application of the income from a project under this chapter as provided in § 49-16B-26.

20 Section 200. That § 49-16B-37 be amended to read as follows:

21 49-16B-37. The authority, in order further to secure the payment of the interim notes, ~~is, in~~
22 ~~addition to the foregoing, authorized to~~ may make any other or additional covenants, terms and
23 conditions not inconsistent with the provisions of §§ 49-16B-13 and 49-16B-15, and do any and
24 all acts and things as may be necessary or convenient or desirable in order to secure payment

1 of its interim notes, or, in the discretion of the authority, as will tend to make the interim notes
2 more acceptable to lenders, notwithstanding that the covenants, acts or things may not be
3 enumerated herein. However, nothing contained in this section ~~shall authorize~~ authorizes the
4 authority to secure the payment of the interim notes out of property or facilities, other than the
5 facilities acquired with the proceeds of the interim notes, and any net income and revenue
6 derived from the facilities and the proceeds of revenue bonds ~~as hereinabove provided~~.

7 Section 201. That § 49-16B-38 be amended to read as follows:

8 49-16B-38. The interim notes ~~shall~~ do not constitute an indebtedness within the meaning
9 of any constitutional or statutory debt limitation or restriction.

10 Section 202. That § 49-16B-48 be repealed.

11 ~~49-16B-48. If any clause or other portion of this chapter is held invalid, that decision shall~~
12 ~~not affect the validity of the remaining portions of this chapter. It is hereby declared that all such~~
13 ~~remaining portions of this chapter are severable, and that the Legislature would have enacted~~
14 ~~such remaining portions if the portions that may be so held to be invalid had not been included~~
15 ~~in this chapter.~~

16 Section 203. That § 49-16B-49 be repealed.

17 ~~49-16B-49. This chapter may be cited as the "South Dakota Railroad Authority Act."~~

18 Section 204. That § 49-16B-50 be repealed.

19 ~~49-16B-50. It is hereby declared:~~

20 ~~(1) That the Ortonville, Minnesota, to Terry, Montana, rail line segment which serves~~
21 ~~Big Stone City, Aberdeen, Mobridge, and other rail users in South Dakota is of~~
22 ~~critical importance to the state;~~

23 ~~(2) That the Interstate Commerce Commission has found that the line provides the only~~
24 ~~feasible means for delivery of 2.7 million tons of lignite coal annually to the Big~~

1 ~~Stone Power Plant which serves two hundred seventy-eight thousand consumers in~~
2 ~~Minnesota, Montana, South Dakota, and North Dakota;~~

3 ~~— (3) — That loss of rail service on the line will foreclose the ability of South Dakota grain~~
4 ~~shippers to competitively sell agricultural products through the west coast ports;~~

5 ~~— (4) — That preservation of the line will support the viability of this state's twenty-five~~
6 ~~million dollars investment in the state core system.~~

7 Section 205. That § 49-16B-51 be repealed.

8 ~~— 49-16B-51. It being declared in the public interest, the South Dakota Railroad Authority,~~
9 ~~pursuant to chapter 49-16B, is hereby authorized to take such action which will permit~~
10 ~~continued service by private enterprise over the existing railroad facilities extending westerly~~
11 ~~from Ortonville, Minnesota, through South Dakota to Terry, Montana, and to finance the same~~
12 ~~as provided in §§ 49-16B-50 to 49-16B-54, inclusive.~~

13 Section 206. That § 49-16B-52 be repealed.

14 ~~— 49-16B-52. The South Dakota Railroad Authority, pursuant to chapter 49-16B, with the~~
15 ~~written consent of the Governor, may issue appropriate instruments to assure the continued~~
16 ~~service by private enterprise over the line, including those instruments issued in connection with~~
17 ~~the securing of available financial assistance from the Department of Transportation, federal~~
18 ~~railroad administration pursuant to sections 505 and 511 of the Railroad Revitalization and~~
19 ~~Regulatory Reform Act of 1976, as amended.~~

20 Section 207. That § 49-16B-53 be repealed.

21 ~~— 49-16B-53. To the extent that funds are not available for such purpose pursuant to § 49-16B-~~
22 ~~52, the South Dakota Railroad Authority, pursuant to chapter 49-16B, with the written consent~~
23 ~~of the Governor, may issue its negotiable bonds or notes in order to assure the continued service~~
24 ~~by private enterprise over the line, provided however, that no bonds or notes shall be issued in~~

1 ~~any amount in excess of thirty-five million dollars, inclusive of all necessary charges and~~
2 ~~expenses related thereto and reasonable reserves.~~

3 Section 208. That § 49-16B-54 be repealed.

4 ~~— 49-16B-54. No instruments, bonds or notes issued pursuant to § 49-16B-53 shall constitute~~
5 ~~or give rise to any pecuniary or moral liability of the state or a charge against its general credit~~
6 ~~or taxing powers. Nor shall any tax revenues of the state, its people or any of its political~~
7 ~~subdivisions in any manner be obligated for any purpose recited herein. Nor shall any~~
8 ~~instruments, bonds or notes be issued pursuant to § 49-16B-53 unless they are fully secured in~~
9 ~~such manner as is necessary to market the instruments, bonds, or notes.~~

10 Section 209. That § 49-16B-55 be repealed.

11 ~~— 49-16B-55. The South Dakota Railroad Authority may acquire, by any of the means~~
12 ~~permitted in chapter 49-16B, property, real, personal and mixed, from the Dakota, Minnesota~~
13 ~~& Eastern Railroad Corporation, consisting of easements, rights-of-way, trackage, bridges, rail~~
14 ~~lines and spurs, located between milepost 375.7 and milepost 649.05, as well as the Onida~~
15 ~~branch line, which are in need of repair, improvement, or replacement. Any property so acquired~~
16 ~~by the authority, and any improvements thereto undertaken as provided in §§ 49-16B-55 to 49-~~
17 ~~16B-61, inclusive, are declared to be projects within the meaning of § 49-16B-10, and are~~
18 ~~declared to be in the public interest. Any property acquired by the authority pursuant to §§ 49-~~
19 ~~16B-55 to 49-16B-61, inclusive, may be acquired subject to existing mortgages on or security~~
20 ~~interests in such property.~~

21 Section 210. That § 49-16B-56 be repealed.

22 ~~— 49-16B-56. The authority may undertake, either directly or through a lessee or sublessee,~~
23 ~~such improvements to the portion of the property described in § 49-16B-55 as the authority may~~
24 ~~declare to be necessary to cause such property to be suitable for the uses to be made of it. The~~

1 ~~authority may issue its bonds pursuant to §§ 49-16B-23 and 49-16B-24 in one or more series~~
2 ~~in an aggregate principal amount not exceeding \$35,000,000 to finance the costs of acquiring~~
3 ~~and improving the property described in § 49-16B-55, to purchase mortgage notes, including~~
4 ~~participation interests therein, or other obligations of private parties issued to finance such costs,~~
5 ~~and to provide for necessary reserves, including the capital reserve fund described in § 49-16B-~~
6 ~~57, and the costs of issuing such bonds. Each series of bonds shall specify the portion of the~~
7 ~~property described in § 49-16B-55 to be acquired or improved with the proceeds of such series.~~
8 ~~The authority may issue an initial series of bonds in a principal amount not exceeding~~
9 ~~\$20,000,000. However, no series of bonds may be issued by the authority unless and until the~~
10 ~~authority receives evidence satisfactory to it that the Dakota, Minnesota & Eastern Railroad~~
11 ~~Corporation meets the following financial tests:~~

12 ~~— (1) — The ratio of its long-term indebtedness to its equity (net worth) does not exceed 3/1;~~
13 ~~and~~

14 ~~— (2) — The ratio of its annual cash flow to the maximum annual debt service on its~~
15 ~~long-term indebtedness is at least 1.1/1.~~

16 ~~— When each series of bonds has been paid or retired, and the state has been repaid for any~~
17 ~~moneys appropriated by the Legislature to replenish the capital reserve fund, the authority shall~~
18 ~~reconvey to the Dakota, Minnesota & Eastern Railroad Corporation the portion of the property~~
19 ~~described in § 49-16B-55, and all improvements thereto, financed with the proceeds of such~~
20 ~~series.~~

21 ~~— To secure the authority's bonds or other obligations issued or incurred with respect to any~~
22 ~~property acquired by the authority pursuant to §§ 49-16B-55 to 49-16B-62, inclusive, the~~
23 ~~authority may grant to a trustee for the benefit of bondholders or to third parties a mortgage on~~
24 ~~or security interest in the authority's interest in such property. Any mortgage or security interest~~

1 ~~so granted with respect to any property may be on a parity with any existing mortgages on or~~
2 ~~security interests in such property.~~

3 Section 211. That § 49-16B-57 be repealed.

4 ~~—49-16B-57. The authority shall establish a capital reserve fund for bonds issued pursuant to~~
5 ~~§ 49-16B-56 and shall pay into the capital reserve fund any moneys appropriated or made~~
6 ~~available by the state for the fund, any proceeds from the sale of bonds to the extent provided~~
7 ~~in the authorizing resolution, and any other moneys which may be made available to the~~
8 ~~authority for the fund from any other source.~~

9 ~~—The maximum annual debt service shall be the capital reserve requirement. For purposes of~~
10 ~~computing the capital reserve requirement, the annual debt service for any fiscal year shall be~~
11 ~~equal to the sum of all interest payable during the fiscal year on all bonds outstanding on the~~
12 ~~date of computation, plus the principal amount of all bonds outstanding on that date which~~
13 ~~mature or are subject to mandatory redemption during the fiscal year, all calculated on the~~
14 ~~assumption that such bonds will after their maturity date cease to be outstanding. The moneys~~
15 ~~in the capital reserve fund may not be less than the capital reserve requirement, except that~~
16 ~~withdrawals for payments of principal of and interest and redemption premiums on bonds issued~~
17 ~~under § 49-16B-56 may be made from the capital reserve fund if other moneys of the authority~~
18 ~~are not available.~~

19 ~~—All moneys held in the capital reserve fund, except as hereinafter provided, shall be used~~
20 ~~solely for the payment of the principal of bonds secured by the fund, the purchase or redemption~~
21 ~~of bonds, the payment of interest on bonds, or the payment of any redemption premium required~~
22 ~~to be paid if the bonds are redeemed prior to maturity. Any income from the capital reserve fund~~
23 ~~may be transferred to other funds or accounts established with respect to the bonds, to the extent~~
24 ~~the transfer does not reduce the amount of the capital reserve fund below the capital reserve~~

1 requirement.

2 ~~—The authority may not issue bonds secured by the capital reserve fund if the capital reserve~~
3 ~~requirement exceeds the capital reserve fund at the time of issuance, unless the authority, at the~~
4 ~~time of issuance of such bonds, deposits in the fund an amount which, together with the amount~~
5 ~~then in the fund, will not be less than the new capital reserve requirement.~~

6 ~~—The chairman of the board of directors of the authority shall annually submit to the Bureau~~
7 ~~of Finance and Management a budget estimate in accordance with § 4-7-7 stating the sum, if~~
8 ~~any, needed to restore the capital reserve fund to the level of the capital reserve requirement. In~~
9 ~~the event the chairman certifies a need to restore the capital reserve fund, the Governor shall~~
10 ~~submit a budget in accordance with § 4-7-9 including the sum, if any, needed to restore the~~
11 ~~capital reserve fund to the level of the capital reserve requirement. All sums appropriated by the~~
12 ~~Legislature for the restoration shall be deposited in the capital reserve fund.~~

13 Section 212. That § 49-16B-58 be repealed.

14 ~~—49-16B-58. The authority shall lease any property acquired pursuant to § 49-16B-55 to the~~
15 ~~South Dakota Department of Transportation, Division of Air, Rail, and Transit, but the lease~~
16 ~~shall be made in accordance with the provisions of chapter 49-16B relating to leases to the~~
17 ~~division. The division shall sublease any property acquired pursuant to § 49-16B-55 only to the~~
18 ~~Dakota, Minnesota & Eastern Railroad Corporation, but the lease shall be made in accordance~~
19 ~~with the provisions of chapter 49-16B, and shall provide for payment of net sublease rentals~~
20 ~~sufficient in each year to pay the principal of and interest on the authority's bonds issued to~~
21 ~~finance the acquisition or improvement of such property and to repay the state for any moneys~~
22 ~~appropriated by the Legislature to replenish the capital reserve fund. The provisions of this~~
23 ~~section are subject to the provisions of any trust indenture or other document securing the bonds~~
24 ~~which grants a lien on or security interest in the property.~~

Section 213. That § 49-16B-59 be repealed.

~~49-16B-59. Before issuing any bonds pursuant to § 49-16B-56, the authority shall determine that there are sufficient revenues, as described in § 49-16B-26, to provide for the timely payment of the principal of and interest on such bonds.~~

Section 214. That § 49-16B-60 be repealed.

~~49-16B-60. The state hereby pledges and agrees with the holder of any bonds issued pursuant to §§ 49-16B-55 to 49-16B-61, inclusive, that the state will not limit or alter the rights vested in the authority to fulfill the terms of any agreement made with any holder or impair the rights and remedies of any holder until the bonds, together with the interest thereon, with interest on any unpaid installments of interest, and all costs in connection with any proceeding on behalf of any holder, are fully met and discharged. The authority may include this pledge and agreement in any agreement with the holder of any bonds.~~

Section 215. That § 49-16B-61 be repealed.

~~49-16B-61. Nothing in §§ 49-16B-55 to 49-16B-60, inclusive, validates or invalidates any rights of employees of the Dakota, Minnesota & Eastern Railroad Corporation.~~

Section 216. That § 49-16B-62 be repealed.

~~49-16B-62. It is hereby declared:~~

~~(1) That the efficient marketing and distribution of natural resources, agricultural and manufacturing commodities produced within the state, such as bentonite clay, wheat and wood products, and cement, is crucial to the economic health of the state as a whole and will further the public interest;~~

~~(2) That the deteriorated condition of certain railroad properties and facilities located within the state and owned by the Dakota, Minnesota & Eastern Railroad Corporation, including properties and facilities located between milepost 375.7 and~~

milepost 649.05, as well as the Onida branch line, seriously impedes the timely and efficient production, marketing, and distribution of such natural resources, and agricultural and manufacturing commodities;

~~(3) That the improvement and reconstruction of the aforesaid railroad properties and facilities would have the effect of substantially decreasing transit time and assuring timely delivery of natural resources and agricultural and manufacturing commodities produced within the state, and would assure cost efficient access to distant markets for the producers of such commodities and thereby further the public interest;~~

~~(4) That no other railroad facilities of similar capacity and comparable services are available in the same geographical area to the producers of the natural resources and agricultural and manufacturing commodities described above, and that the sole practicable and cost effective means of assuring that such commodities are marketed and distributed successfully is the improvement and reconstruction of the aforesaid railroad properties and facilities;~~

~~(5) That for the foregoing reasons, it is of general economic benefit to the state and in the public interest to assist the financing of the improvement and reconstruction of the aforesaid railroad properties and facilities and that measures for such purposes should be adopted as soon as practicable.~~

Section 217. That § 49-16B-63 be repealed.

~~49-16B-63. It being declared in the public interest, the South Dakota Railroad Authority, pursuant to chapter 49-16B, is hereby authorized to take such action to acquire, by any of the means permitted in chapter 49-16B, property, real, personal, and mixed, from the Burlington Northern and Santa Fe Railway Company, consisting of easements, rights-of-way, trackage, bridges, rail lines, and spurs, located between mileposts 118.6 near Aberdeen, South Dakota,~~

1 and milepost 65.60 at the North Dakota/South Dakota border, which are in need of repair,
2 improvement, or replacement. Such property acquired by the authority, and any improvements
3 thereto undertaken as provided in this section, are declared to be projects within the meaning
4 of § 49-16B-10. Any property acquired by the authority pursuant to this section may be acquired
5 subject to existing mortgages on or security interests in such property.

6 Section 218. That § 49-16B-64 be repealed.

7 ~~— 49-16B-64. The authority may undertake, either directly or through a lessee or sub-lessee,~~
8 ~~such improvements to the portion of the property described in § 49-16B-63 as the authority may~~
9 ~~declare to be necessary to cause such property to be suitable for the uses to be made of it.~~

10 Section 219. That § 49-16B-65 be repealed.

11 ~~— 49-16B-65. It being declared in the public interest, the South Dakota Railroad Authority,~~
12 ~~pursuant to chapter 49-16B, may acquire, by any of the means permitted in chapter 49-16B,~~
13 ~~property, real, personal, and mixed from the Rutland Line, Incorporated (doing business as the~~
14 ~~Red River Valley and Western Railroad), consisting of easements, rights-of-way, trackage,~~
15 ~~bridges, rail lines, and spurs, located between mileposts 42.67 at Genesco Junction, North~~
16 ~~Dakota, and milepost 65.60 at the North Dakota/South Dakota border. Such property acquired~~
17 ~~by the authority, and any improvements thereto undertaken as provided in §§ 49-16B-65 and~~
18 ~~49-16B-66, are declared to be projects within the meaning of § 49-16B-10. Any property~~
19 ~~acquired by the authority pursuant to §§ 49-16B-65 and 49-16B-66 may be acquired subject to~~
20 ~~existing mortgages on or security interests in such property.~~

21 Section 220. That § 49-16B-65.1 be repealed.

22 ~~— 49-16B-65.1. The authority may enter into any contract that the authority determines~~
23 ~~necessary or appropriate to manage payment or interest rate risk for bonds issued pursuant to~~
24 ~~this chapter, the investment of proceeds, or other funds of the authority. The contracts may~~

1 ~~include: interest rate exchange agreements; contracts providing for payment or receipt of funds~~
2 ~~based on levels of or changes in interest rates; contracts to exchange cash flows or series of~~
3 ~~payments; or contracts incorporating interest rate caps, collars, floors, or locks.~~

4 Section 221. That § 49-16B-66 be repealed.

5 ~~—49-16B-66. The authority may undertake, either directly or through a lessee or sublessee,~~
6 ~~such improvements to the portion of the property described in § 49-16B-65 as the authority may~~
7 ~~deem to be necessary to cause the property to be suitable for the uses to be made of it.~~

8 Section 222. That § 49-16B-67 be repealed.

9 ~~—49-16B-67. It being declared in the public interest, the South Dakota Railroad Authority,~~
10 ~~pursuant to chapter 49-16B, may acquire, by any of the means permitted in chapter 49-16B,~~
11 ~~property, real, personal, and mixed from the East Central Regional Railroad Authority,~~
12 ~~consisting of easements, rights-of-way, trackage, bridges, rail lines, and spurs, located between~~
13 ~~mileposts 160.3 at Huron, South Dakota, and milepost 145.0 at Yale, South Dakota, inclusive,~~
14 ~~and certain industrial trackage at Huron, South Dakota. The property acquired by the authority,~~
15 ~~and any improvements thereto undertaken as provided in §§ 49-16B-67 and 49-16B-68, are~~
16 ~~declared to be projects within the meaning of § 49-16B-10. Any property acquired by the~~
17 ~~authority pursuant to §§ 49-16B-67 and 49-16B-68 may be acquired subject to existing~~
18 ~~mortgages on or security interests in the property.~~

19 Section 223. That § 49-16B-68 be repealed.

20 ~~—49-16B-68. The authority may undertake, either directly or through a lessee or sublessee,~~
21 ~~the improvements to the portion of the property described in § 49-16B-67 as the authority may~~
22 ~~deem to be necessary to cause the property to be suitable for the uses to be made of it.~~