

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

400Q0075

HOUSE TAXATION ENGROSSED NO. **HB 1009** - 2/17/2009

Introduced by: The Committee on Taxation at the request of the Department of Revenue and Regulation

1 FOR AN ACT ENTITLED, An Act to require certain tax refund claims for construction projects
2 and certain documents and records in support of tax refund claims for construction projects
3 to be filed within certain time periods.

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

5 Section 1. That § 10-45B-8 be amended to read as follows:

6 10-45B-8. Any person issued a permit pursuant to this chapter shall submit a return claim
7 for refund to the department no more frequently than on or before the last day of each month and
8 no less frequently than on or before the last day of each month following each calendar quarter.
9 The secretary shall determine and pay the amount of the tax refund within ~~thirty~~ ninety days of
10 receipt of the return claim for refund. Ninety-five percent of the amount of refund shall be paid
11 to the claimant in accordance with §§ 10-59-22 and 10-59-23, and five percent shall be withheld
12 by the department. No interest ~~shall~~ may be paid on the refund amount. If electronic funds
13 transfer is available to the secretary, the secretary shall pay the refund by electronic funds
14 transfer if requested by the claimant.



1 Section 2. That chapter 10-45B be amended by adding thereto a NEW SECTION to read as
2 follows:

3 No claim for refund pursuant to this chapter may be considered by the department if the
4 claim for refund is received after the following applicable time period:

- 5 (1) Twelve months after the thirty-six month time period of § 10-45B-4;
- 6 (2) Twelve months after the thirty-six month time period of § 10-45B-4.1 for projects
7 with project costs of sixty million dollars or less;
- 8 (3) Twelve months after the seventy-two month time period of § 10-45B-4.1 for projects
9 with project costs of more than sixty million dollars; or
- 10 (4) Twelve months after the extended time period of § 10-45B-4.1 for projects that have
11 obtained a time limit extension from the secretary.

12 Moreover, any such claim is barred from any future refund eligibility.

13 Section 3. That chapter 10-45B be amended by adding thereto a NEW SECTION to read as
14 follows:

15 No document or record in support of any claim for refund may be considered by the
16 department if the documents or records in support of any claim for refund are received after the
17 following applicable time period:

- 18 (1) Twelve months after the thirty-six month time period of § 10-45B-4;
- 19 (2) Twelve months after the thirty-six month time period of § 10-45B-4.1 for projects
20 with project costs of sixty million dollars or less;
- 21 (3) Twelve months after the seventy-two month time period of § 10-45B-4.1 for projects
22 with project costs of more than sixty million dollars; or
- 23 (4) Twelve months after the extended time period of § 10-45B-4.1 for projects that have
24 obtained a time limit extension from the secretary.

1 Moreover, any such document or record is barred from any future consideration.

2 However, if the department requests any additional document or record from the project
3 owner after a review of the claim for refund, and the request is made after the applicable time
4 period provided by this section has expired, the project owner has sixty days to provide the
5 requested document or record. No document or record received after this sixty-day period may
6 be considered by the department. Moreover, any such document or record is barred from any
7 future consideration.

8 Section 4. That chapter 10-45B be amended by adding thereto a NEW SECTION to read as
9 follows:

10 The provisions of section 2 and section 3 of this Act apply to refunds for projects only if the
11 permit was applied for after June 30, 2009.

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

400Q0157

SENATE COMMERCE ENGROSSED NO. **HB 1058** - 2/12/2009

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

1 FOR AN ACT ENTITLED, An Act to revise certain practice privileges for certified public
2 accountants licensed in other states.

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

4 Section 1. That § 36-20B-1 be amended to read as follows:

5 36-20B-1. Terms as used in this chapter mean:

- 6 (1) "Board," the South Dakota Board of Accountancy established pursuant to this chapter
7 or its predecessor;
- 8 (2) "Certificate," a certificate as a certified public accountant issued pursuant to this
9 chapter or corresponding provisions of prior law, or a corresponding certificate as
10 certified public accountant issued after examination under the law of any other state;
- 11 (3) "Client," a person or entity that agrees with a licensee to receive any professional
12 service other than an employer-employee relationship;
- 13 (4) "CPA firm" and "PA firm," a sole proprietorship, a corporation, a partnership, or any
14 other form of organization permitted by law issued a permit under this chapter;
- 15 (5) "Compilation," providing a service to be performed in accordance with Statements



1 on Standards for Accounting and Review Services (SSARS) that is presenting in the
2 form of financial statements, information that is the representation of management
3 (owners) without undertaking to express any assurance on the statements;

4 (6) "Domestic," referring to a jurisdiction of a state;

5 (7) "Foreign," referring to a jurisdiction outside of the United States;

6 (8) "Home office," the location specified by a client as the address to which a service is
7 directed;

8 ~~(8)~~(9) "License," a certificate issued pursuant to this chapter, a permit issued pursuant to
9 this chapter, or a registration pursuant to this chapter; or in each case, a certificate,
10 license, or permit issued under corresponding provisions of prior law;

11 ~~(9)~~(10) "Licensee," the holder of a certificate issued pursuant to this chapter or of a
12 license issued under prior law, or of a permit issued pursuant to this chapter;
13 or in each case, a certificate, license, or permit issued under corresponding
14 provisions of prior law;

15 ~~(10)~~(11) "Manager," manager of a limited liability company;

16 ~~(11)~~(12) "Member," a member of a limited liability company;

17 ~~(12)~~(13) "Peer review," a study, appraisal, or review of one or more aspects of the
18 professional work of a certificate holder or CPA firm that performs attest or
19 compilation services, by a qualified person or persons who hold certificates
20 and who are not affiliated with the certificate holder or CPA firm being
21 reviewed;

22 ~~(13)~~(14) "Permit," a permit to practice public accountancy issued to a firm pursuant to
23 this chapter or corresponding provisions of prior law or under corresponding
24 provisions of the laws of other states;

1 (15) "Practice privilege," the privilege for a person to practice public accountancy;

2 (16) "Principal place of business," the office location designated by the licensee for
3 purposes of substantial equivalency and reciprocity;

4 ~~(14)~~(17) "Professional," arising out of or related to the specialized knowledge or skills
5 associated with CPAs or PAs;

6 ~~(15)~~(18) "Public accountant," a person holding a public accountant license issued
7 pursuant to provisions of prior law;

8 ~~(16)~~(19) "State," any state of the United States, the District of Columbia, Puerto Rico,
9 the U.S. Virgin Islands, ~~and~~ Guam, and the Commonwealth of the Northern
10 Mariana Islands;

11 ~~(17)~~(20) "Substantial equivalency," a determination by the board or its designee that the
12 education, examination, and experience requirements contained in the statutes
13 and administrative rules of another jurisdiction are comparable to, or exceed
14 the education, examination, and experience requirements contained in this
15 chapter or that an individual CPA's education, examination, and experience
16 qualifications are comparable to or exceed the education, examination, and
17 experience requirements contained in this chapter. In ascertaining substantial
18 equivalency, the board or its designee shall take into account the qualifications
19 without regard to the sequence in which experience, education, or examination
20 requirements were attained.

21 Section 2. That § 36-20B-2 be amended to read as follows:

22 36-20B-2. For the purposes of this chapter, attest means providing the following financial
23 statement services:

24 (1) Any audit or other engagement to be performed in accordance with the Statements

1 on Auditing Standards (SAS);

2 (2) Any review of a financial statement to be performed in accordance with the
3 Statements on Standards for Accounting and Review Services (SSARS);

4 (3) Any examination of prospective financial information to be performed in accordance
5 with the Statements on Standards for Attestation Engagements (SSAE); and

6 (4) Any engagement to be performed in accordance with the Auditing Standards of the
7 Public Company Auditing Oversight Board (PCAOB); and

8 (5) The issuance of any report prescribed by the Statements on Auditing Standards
9 (SAS), the Statements on Standards for Accounting and Review Services (SSARS),
10 or the Statements on Standards for Attestation Engagements (SSAE) on any services
11 to which those statements on standards apply, indicating that the service was
12 performed in accordance with standards established by the American Institute of
13 Certified Public Accountants (AICPA).

14 The statements on standards specified in this definition shall be adopted by reference by the
15 board, by rule promulgated pursuant to chapter 1-26, and shall be those developed for general
16 application by recognized national accountancy organizations.

17 Section 3. That § 36-20B-26 be amended to read as follows:

18 36-20B-26. ~~A~~ Before establishing a principal place of business in this state, a certificate
19 holder licensed by another state, ~~before establishing a principal place of business in this state,~~
20 shall request the issuance of a certificate from the board. The board shall issue a certificate to
21 any applicant who obtains from the board of the other state verification that such applicant's
22 qualifications are substantially equivalent to the CPA licensure requirements of this chapter.

23 Section 4. That § 36-20B-32 be amended to read as follows:

24 36-20B-32. The board shall grant or renew a permit to practice as a CPA firm or PA firm

1 to an entity that makes application and demonstrates its qualifications in accordance with this
2 chapter ~~or to a CPA firm originally licensed in another state that establishes an office in this~~
3 ~~state. A firm with multiple locations shall obtain a permit for each location. A firm must hold~~
4 ~~a permit issued under this section in order to provide attest services as defined in this chapter~~
5 ~~or to use the title, CPAs, CPA firm, PAs, or PA firm.~~

6 A permit shall be initially issued and renewed for periods of not more than one year.
7 However, a permit expires on the date as established by the board, by rule promulgated pursuant
8 to chapter 1-26 following issuance or renewal. An application for a permit shall be made in such
9 form, and in the case of an application for renewal, between such dates as the board may, by rule
10 promulgated pursuant to chapter 1-26, specify. If the applicant seeks the opportunity to show
11 that issuance or renewal of a permit was mistakenly denied or if the board is not able to
12 determine whether it should be granted or denied, the board may issue to the applicant a
13 provisional permit, which expires ninety days after its issuance, or when the board determines
14 whether to issue or renew the permit for which the application was made, whichever occurs
15 first.

16 Section 5. That chapter 36-20B be amended by adding thereto a NEW SECTION to read as
17 follows:

18 For the purposes of this chapter, the following firms are required to hold a permit:

- 19 (1) Any firm with an office in this state performing attest services as defined in
20 § 36-20B-2;
- 21 (2) Any firm with an office in this state that uses the title CPAs, CPA firm, PAs, or PA
22 firm; or
- 23 (3) Any firm that does not have an office in this state but performs attest services
24 described in subdivisions 36-20B-2(1), (3) or (4) for a client who resides in this state

1 or whose home office is located in this state.

2 Section 6. That chapter 36-20B be amended by adding thereto a NEW SECTION to read as
3 follows:

4 A firm which does not have an office in this state may perform services described in
5 subdivision 36-20B-1(5) or subdivision 36-20B-2(2) for a client residing in or having a home
6 office in this state and may use the title CPAs, CPA firm, PAs, or PA firm without a permit
7 issued under this chapter only if:

- 8 (1) The firm has the qualifications described in §§ 36-20B-33 and 36-20B-36; and
- 9 (2) The firm performs the services through an individual with practice privileges under
10 the provisions of § 36-20B-66 or 36-20B-67.

11 Section 7. That chapter 36-20B be amended by adding thereto a NEW SECTION to read as
12 follows:

13 A firm that does not have an office in this state and is not subject to the requirements
14 pursuant to subdivision (3) of section 5 of this Act or section 6 of this Act may perform other
15 professional services while using the title CPAs, CPA firm, PAs, or PA firm in this state without
16 a permit issued under this chapter only if:

- 17 (1) The firm performs the services through an individual with practice privileges under
18 the provisions of § 36-20B-66 or 36-20B-67; and
- 19 (2) The firm can lawfully do so in the state where the individual with practice privileges
20 has a principal place of business.

21 Section 8. That § 36-20B-33 be amended to read as follows:

22 36-20B-33. An applicant for initial issuance or renewal of a permit to practice under this
23 chapter shall comply with the following:

- 24 (1) Notwithstanding any other provision of law, a majority of the owners of the firm, in

1 terms of financial interests and voting rights, are holders of a certificate and are
2 licensed in some state, and such owners whose principal place of business is in this
3 state and who perform professional services in this state hold a valid certificate
4 issued under this chapter or the corresponding provision of prior law or are public
5 accountants registered under this chapter. Firms may include nonlicensee owners.
6 However, such firms ~~must~~ shall be controlled by the majority vote of owners who are
7 holders of a certificate and who are licensed in some state, and such control may not
8 be relinquished by contract, such as through veto rights held by owners of less than
9 a majority of the owners. The firm and its ownership shall comply with rules
10 promulgated by the board pursuant to chapter 1-26. For firms of public accountants,
11 at least a majority of the owners of the firm ~~must~~ shall be holders of registrations
12 under this chapter. An individual who has practice privileges under the provisions of
13 § 36-20B-66 or 36-20B-67 who performs services for which a firm permit is required
14 pursuant to section 27 of this Act is not required to obtain a certificate from this state
15 pursuant to § 36-20B-13;

16 (2) Any CPA or PA firm as defined in this chapter may include nonlicensee owners if
17 the firm designates a licensee of this state, or, in the case of a firm which is required
18 to obtain a permit pursuant to section 27 of this Act, a licensee of another state who
19 meets the requirements set forth in § 36-20B-66 or 36-20B-67, who is responsible for
20 the proper registration of the firm and identifies non-license owners to the board;

21 (3) All nonlicensee owners are active individual participants in the CPA or PA firm or
22 an affiliated entity;

23 (4) The firm complies with such other requirements as the board may establish by rule
24 promulgated pursuant to chapter 1-26;

1 (5) Any individual licensee or individual with practice privileges under the provisions
2 of § 36-20B-66 or 36-20B-67 who is responsible for supervising attest or compilation
3 services and signs or authorizes another individual to sign the accountant's report on
4 the financial statements on behalf of the firm shall meet the experience requirements
5 set out in the professional standards for such services; and

6 (6) Any individual licensee or individual with practice privileges under the provisions
7 of § 36-20B-66 or 36-20B-67 who signs or authorizes an individual to sign the
8 accountant's report on the financial statements on behalf of the firm shall meet the
9 experience requirement of this chapter.

10 An applicant for initial issuance or renewal of a permit to practice shall register each office
11 of the firm within this state with the board and show that all attest and compilation services
12 rendered in this state are under the charge of a person holding a valid certificate issued under
13 this chapter or the corresponding provision of prior law or some other state.

14 Section 9. That § 36-20B-40 be amended to read as follows:

15 36-20B-40. The board may, in accordance with chapter 1-26, revoke any certificate, license,
16 or permit issued pursuant to this chapter or corresponding provisions of prior law or revoke or
17 limit practice privileges under this chapter the provisions of § 36-20B-66 or 36-20B-67; suspend
18 any such certificate, license, or permit, or refuse to renew any such certificate, license, or permit
19 for a period of not more than five years; reprimand, censure, or limit the scope of practice of any
20 licensee; impose an administrative fine not exceeding one thousand dollars, or place any
21 licensee on probation, all with or without terms, conditions, and limitations, for any one or more
22 of the following reasons:

23 (1) Fraud or deceit in obtaining a certificate or permit;

24 (2) Cancellation, revocation, suspension, or refusal to renew a certificate, license, or

- 1 permit to engage in the practice of public accountancy in any other state for any
2 cause;
- 3 (3) Failure, on the part of a holder of a certificate, license, or permit under this chapter
4 or registration under this chapter, or of a certificate, license or permit issued by
5 another state, to maintain compliance with the requirements for issuance or renewal
6 of such certificate, license, permit, or registration or to report changes to the board;
- 7 (4) Revocation or suspension of the right to practice before any state or federal agency;
- 8 (5) Dishonesty, fraud, or repeated acts of negligence in the performance of services as
9 a licensee or individual granted practice privileges under ~~this chapter~~ the provisions
10 of § 36-20B-66 or 36-20B-67 or in the filing or failure to file one's own income tax
11 returns;
- 12 (6) Violation of any provision of this chapter or rule, promulgated by the board pursuant
13 to chapter 1-26, or violation of professional standards;
- 14 (7) Violation of any rule of professional conduct promulgated by the board pursuant to
15 chapter 1-26;
- 16 (8) Conviction of a felony, or of any crime an element of which is dishonesty or fraud,
17 under the laws of the United States, of this state, or of any other state if the acts
18 involved would have constituted a crime under the laws of this state;
- 19 (9) Performance of any fraudulent act while holding a certificate, license, or permit or
20 privilege issued under this chapter or prior law;
- 21 (10) Any conduct reflecting adversely upon the licensee's fitness to perform services while
22 a licensee; or individual granted practice privileges under ~~this chapter~~ the provisions
23 of § 36-20B-66 or 36-20B-67;
- 24 (11) Making any false or misleading statement or verification, in support of an application

1 for a certificate, registration, or permit filed by another; and

2 (12) Dishonesty or repeated acts of negligence in the performance of peer reviews.

3 In lieu of or in addition to any remedy specifically provided in this section, the board may
4 require of a licensee a peer review conducted in the manner as the board may specify or
5 satisfactory completion of the continuing professional education programs as the board may
6 specify, or both.

7 In any proceeding in which a remedy provided by this section is imposed, the board may
8 also require the respondent licensee to pay the costs of the proceeding.

9 Section 10. That § 36-20B-43 be amended to read as follows:

10 36-20B-43. Upon a finding of probable cause, if the subject of the investigation is a licensee
11 or an individual with practice privileges under ~~this chapter~~ the provisions of § 36-20B-66 or 36-
12 20B-67, the board shall proceed in accordance with chapter 1-26. If the subject of the
13 investigation is not a licensee or an individual with privileges under this chapter, the board shall
14 take appropriate action under this chapter. Upon a finding of no probable cause, the board shall
15 close the matter and shall thereafter release information relating thereto only with the consent
16 of the person or firm under investigation.

17 Section 11. That § 36-20B-44 be amended to read as follows:

18 36-20B-44. The board may review the publicly available professional work of licensees or
19 an individual with practice privileges under ~~this chapter~~ the provisions of § 36-20B-66 or 36-
20 20B-67 on a general and random basis, without any requirement of a formal complaint or
21 suspicion of impropriety on the part of any particular licensee. If, as a result of such review, the
22 board discovers grounds for a more specific investigation, the board may proceed as prescribed
23 under this chapter.

24 Section 12. That § 36-20B-45 be amended to read as follows:

1 36-20B-45. If probable cause with respect to a violation by a licensee or an individual with
2 practice privileges granted under ~~this chapter~~ the provisions of § 36-20B-66 or 36-20B-67 has
3 been determined by the board, or upon receipt of notice of a decision by the board of another
4 state furnishing grounds for a determination of probable cause, the board may issue a complaint
5 setting forth appropriate charges and set a date for hearing before the board on such charges. If
6 a complaint is issued and a hearing date set, the board shall, not less than thirty days prior to the
7 date of the hearing, serve a copy of the complaint and notice of the time and place of the hearing
8 upon the licensee or an individual with practice privileges granted under ~~this chapter~~ the
9 provisions of § 36-20B-66 or 36-20B-67, together with a copy of the board's rules governing
10 proceedings under this section, either by personal delivery or by mailing a copy thereof by
11 registered mail to the licensee at the licensee's address, last known to the board. In the case of
12 an individual exercising practice privileges under ~~this chapter~~ the provisions of § 36-20B-66 or
13 36-20B-67, service shall be by certified or registered mail to the address last known to the
14 board, or pursuant to chapter 1-26.

15 Section 13. That § 36-20B-46 be amended to read as follows:

16 36-20B-46. A licensee or an individual with practice privileges under ~~this chapter~~ the
17 provisions of § 36-20B-66 or 36-20B-67 against whom a complaint has been issued under this
18 section may, reasonably in advance of the hearing, examine and copy the report of investigation,
19 if any, and any documentary or testimonial evidence and summaries of anticipated evidence in
20 the board's possession relating to the subject matter of the complaint. The board shall adopt
21 rules, promulgated pursuant to chapter 1-26, governing proceedings under this section to specify
22 the manner in which such right may be exercised.

23 Section 14. That § 36-20B-47 be amended to read as follows:

24 36-20B-47. The respondent licensee or an individual with practice privileges granted under

1 ~~this chapter~~ the provisions of § 36-20B-66 or 36-20B-67 may appear at the hearing in person
2 or, in the case of a firm, through a partner, officer, director, shareholder, member, or manager,
3 and by counsel, examine witnesses and evidence presented in support of the complaint, and
4 present evidence and witnesses on the licensee's or an individual's own behalf. The licensee or
5 an individual granted practice privileges under ~~this chapter~~ the provisions of § 36-20B-66 or 36-
6 20B-67 is entitled, on application to the board, to the issuance of subpoenas to compel the
7 attendance of witnesses and the production of documentary evidence.

8 Section 15. That § 36-20B-49 be amended to read as follows:

9 36-20B-49. If after service of a complaint and notice of hearing the respondent licensee fails
10 to appear at the hearing, the board may proceed to hear evidence against the licensee or an
11 individual granted practice privileges under ~~this chapter~~ the provisions of § 36-20B-66 or 36-
12 20B-67 and may enter an order as it deems warranted by the evidence. Any order shall be final
13 unless the licensee or an individual granted practice privileges under ~~this chapter~~ the provisions
14 of § 36-20B-66 or 36-20B-67 petitions for review. However, within thirty days from the date
15 of any such order, upon a showing of good cause for the licensee's or an individual's failure to
16 appear and defend, the board may set aside the order and schedule a new hearing on the
17 complaint, to be conducted in accordance with the provisions of this section.

18 Section 16. That § 36-20B-51 be amended to read as follows:

19 36-20B-51. If the board renders a decision imposing discipline against a licensee or an
20 individual granted practice privileges under ~~this chapter~~ the provisions of § 36-20B-66 or 36-
21 20B-67, the board shall notify any board of accountancy of any other state in which the licensee
22 also holds certificates, licenses, or permits of its decision, ~~by mail~~, within forty-five days of
23 rendering the decision. The board may also furnish information relating to proceedings resulting
24 in disciplinary action to other public authorities and to private professional organizations having

1 a disciplinary interest in the licensee.

2 If a petition for review has been filed pursuant to this chapter, the notification and furnishing
3 of information provided for in this section shall await the resolution of such review and, if
4 resolution is in favor of the licensee or an individual granted practice privileges under ~~this~~
5 ~~chapter~~ the provisions of § 36-20B-66 or 36-20B-67, no such notification or furnishing of
6 information may be made.

7 Section 17. That § 36-20B-52 be amended to read as follows:

8 36-20B-52. If the board has suspended or revoked a certificate, license, permit, or
9 registration or revoked or limited practice privileges under ~~this chapter~~ the provisions of § 36-
10 20B-66 or 36-20B-67 or refused to renew a certificate, license, permit, or registration, the board
11 may, upon application in writing by the person or firm affected and for good cause shown,
12 modify the suspension, or reissue the certificate, license, permit, or registration or remove the
13 limitation or revocation of privileges.

14 The board shall, by rule promulgated pursuant to chapter 1-26, specify the manner in which
15 such applications shall be made, the times within which they shall be made, and the
16 circumstances in which hearings will be held.

17 Section 18. That § 36-20B-53 be amended to read as follows:

18 36-20B-53. Before reissuing or terminating the suspension of a certificate, license, permit,
19 or registration under this section or of practice privileges under ~~this chapter~~ the provisions of
20 § 36-20B-66 or 36-20B-67, and as a condition thereto, the board may require the applicant to
21 show successful completion of specified continuing professional education. The board may
22 make the reinstatement of a certificate, license, permit, or registration or of practice privileges
23 under ~~this chapter~~ the provisions of § 36-20B-66 or 36-20B-67 conditional and subject to
24 satisfactory completion of a peer review conducted in such manner as the board may specify.

1 Section 19. That § 36-20B-54 be amended to read as follows:

2 36-20B-54. No person other than a licensee or an individual granted practice privileges
3 under the provisions of § 36-20B-66 or 36-20B-67 may issue a report on financial statements
4 of any person, firm, organization, or governmental unit or offer to render or render any attest or
5 compilation service. This restriction does not prohibit any act of a public official or public
6 employee in the performance of that person's duties as such, or prohibit the performance by any
7 nonlicensee of other services involving the use of accounting skills, including the preparation
8 of tax returns, management advisory services, and the preparation of financial statements
9 without the issuance of reports thereon. A nonlicensee may prepare financial statements and
10 issue nonattest transmittals or information thereon which do not purport to be in compliance
11 with the Statements on Standards for Accounting and Review Services (SSARS).

12 A licensee and an individual granted practice privileges under the provisions of § 36-20B-66
13 or 36-20B-67 performing attest or compilation services shall provide those services in
14 accordance with professional standards.

15 Section 20. That § 36-20B-55 be amended to read as follows:

16 36-20B-55. A person who does not hold a valid certificate or has not been granted practice
17 privileges under the provisions of § 36-20B-66 or 36-20B-67 may not use or assume the title,
18 certified public accountant, the abbreviation, CPA, or any other title, designation, words, letters,
19 abbreviation, sign, card, or device tending to indicate that such person is a certified public
20 accountant.

21 No firm may provide attest services or assume or use the title, certified public accountants,
22 or the abbreviation, CPAs, or any other title, designation, words, letters, abbreviation, sign, card,
23 or device tending to indicate that such firm is a CPA firm unless:

24 (1) The firm holds a valid permit issued under this chapter or is exempt from the permit

1 requirements pursuant to section 6 or section 7 of this Act; and

2 (2) Ownership of the firm is in accordance with this chapter and rules promulgated by
3 the board in accordance with chapter 1-26, if applicable.

4 Section 21. That § 36-20B-57 be amended to read as follows:

5 36-20B-57. No person or firm, not holding a valid certificate, permit, or registration issued
6 under this chapter, may assume or use the title, certified accountant, chartered accountant,
7 enrolled accountant, licensed accountant, registered accountant, accredited accountant, or any
8 other title or designation likely to be confused with the titles, certified public accountant or
9 public accountant, or use any of the abbreviations CA, LA, RA, AA, or similar abbreviation
10 likely to be confused with the abbreviations, CPA or PA. However, the provisions of this
11 section do not apply to any individual granted practice privileges under the provisions of § 36-
12 20B-66 or 36-20B-67 or to any firm which is exempt from the permit requirements pursuant to
13 section 6 or section 7 of this Act. The title, Enrolled Agent or EA may only be used by
14 individuals so designated by the Internal Revenue Service.

15 No nonlicensee, except an individual granted practice privileges under the provisions of
16 § 36-20B-66 or 36-20B-67, may use language in any statement relating to the financial affairs
17 of a person or entity which is conventionally used by licensees in reports on financial
18 statements.

19 Section 22. That § 36-20B-58 be amended to read as follows:

20 36-20B-58. No person or firm which does not hold a valid certificate, permit, or registration
21 issued under this chapter may assume or use any title or designation that includes the words,
22 accountant, auditor, or accounting, in connection with any other language, including the
23 language of a report, that implies that such person or firm holds such a certificate, permit, or
24 registration or has special competence as an accountant or auditor. However, this the provisions

1 of this section do not apply to any individual granted practice privileges under the provisions
2 of § 36-20B-66 or 36-20B-67 or to any firm that is exempt from the permit requirements
3 pursuant to section 6 or section 7 of this Act.

4 This section does not prohibit any officer, partner, member, manager, or employee of any
5 firm or organization from affixing that person's own signature to any statement in reference to
6 the financial affairs of such firm or organization with any wording designating the position, title,
7 or office that the person holds therein nor prohibit any act of a public official or employee in the
8 performance of the persons duties as such.

9 ~~Any person or firm who violates the provisions~~ A violation of this section is ~~guilty of a~~
10 Class 2 misdemeanor.

11 Section 23. That § 36-20B-59 be amended to read as follows:

12 36-20B-59. The provisions of this chapter do not apply to any person or firm holding a
13 certification, designation, degree, or license granted in a foreign country entitling the holder
14 thereof to engage in the practice of public accountancy or its equivalent in such country, whose
15 activities in this state are limited to the provision of professional services to persons or firms
16 who are residents of, governments of, or business entities of, the country in which the person
17 holds such entitlement, who performs no attest or compilation services and who issues no
18 reports with respect to the financial statements of any other persons, firms, or governmental
19 units in this state, and who does not use in this state any title or designation other than the one
20 under which the person practices in such country, followed by a translation of such title or
21 designation into the English language, if it is in a different language, and by the name of such
22 country.

23 However, it is not a violation of this chapter for a firm which does not hold a valid permit
24 under § 36-20B-32 and which does not have an office in this state to provide its professional

1 services in this state if the firm complies with the requirements pursuant to section 6 or section
2 7 of this Act, whichever is applicable.

3 Section 24. That § 36-20B-66 be amended to read as follows:

4 36-20B-66. An individual whose principal place of business is not in this state ~~having who~~
5 holds a valid certificate or license as a certified public accountant from any state which the
6 board has verified to be in substantial equivalence with the CPA licensure requirements of this
7 chapter is presumed to have qualifications substantially equivalent to ~~this state's requirements~~
8 of this state and shall have all the privileges of certificate holders and licensees of this chapter
9 without the need to obtain a certificate or permit under this chapter. ~~However, such individuals~~
10 ~~shall notify the board of their intent to enter the state under this provision completing procedures~~
11 ~~and paying fees specified by the board and promulgated by rule pursuant to chapter 1-26.~~

12 Notwithstanding any other provision of law, an individual who offers or renders professional
13 services under this section, whether in person, or by mail, telephone, or electronic means, shall
14 be granted practice privileges in this state, and no notice, fee, or other submission is required
15 of the individual. However, the individual shall be subject to the requirements of § 36-20B-68.

16 Section 25. That § 36-20B-67 be amended to read as follows:

17 36-20B-67. Any individual whose principal place of business is not in this state ~~having who~~
18 holds a valid certificate or license as a certified public accountant from any state which the
19 board has not verified to be in substantial equivalence with the CPA licensure requirements of
20 this chapter ~~shall be~~ is presumed to have qualifications substantially equivalent to this state's
21 requirements and shall have all the privileges of certificate holders and licensees of this state
22 without the need to obtain a certificate or permit under this chapter. ~~However, such individuals~~
23 ~~shall notify the board of their intent to enter the state under this provision completing procedures~~
24 ~~and paying fees, not to exceed one hundred fifteen dollars, specified by the board and~~

1 ~~promulgated by rule pursuant to chapter 1-26 if the CPA qualifications of the individual are~~
2 substantially equivalent to the CPA licensure requirements of this chapter.

3 Notwithstanding any other provision of law, an individual who offers or renders professional
4 services, whether in person, or by mail, telephone, or electronic means, under this section shall
5 be granted practice privileges in this state, and no notice, fee, or other submission is required
6 of the individual. However, the individual shall be subject to the requirements of § 36-20B-68.

7 Section 26. That § 36-20B-68 be amended to read as follows:

8 36-20B-68. Any licensee of another state ~~exercising~~ who exercises the practice privilege
9 ~~afforded under this chapter~~ provided in § 36-20B-66 or 36-20B-67 and the firm, if any, which
10 employs that licensee hereby simultaneously consents, as a condition of the grant of this
11 privilege, to the personal and subject matter jurisdiction and disciplinary authority of the board,
12 and agrees to comply with this chapter and the board's rules; and, if the license from the state
13 of the individual's principal place of business is no longer valid, the individual shall cease
14 offering or rendering professional services in this state, both individually and on behalf of a
15 firm. Any licensee who exercises the privilege provided in § 36-20B-66 or 36-20B-67 consents
16 to the appointment of the state board which issued their license as their agent upon whom
17 process may be served in any action or proceeding by this board against the licensee.

18 Section 27. That chapter 36-20B be amended by adding thereto a NEW SECTION to read
19 as follows:

20 An individual who has been granted practice privileges under the provisions of § 36-20B-66
21 or 36-20B-67 who performs for any entity with its home office in this state any of the following
22 services:

- 23 (1) Any financial statement audit or other engagements to be performed in accordance
24 with Statements on Auditing Standards (SAS);

- 1 (2) Any examination of prospective financial information to be performed in accordance
2 with Statements on Standards For Attestation Engagements (SSAE); or
- 3 (3) Any engagement to be performed in accordance with Public Company Accounting
4 Oversight Board (PCAOB) auditing standards;
- 5 shall do so only through a firm which has obtained a permit under the provisions of § 36-20B-
6 32.

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

138Q0379

HOUSE TRANSPORTATION

ENGROSSED NO. **HB 1121** - 2/17/2009

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

Introduced by: Representatives Steele, Bolin, Elliott, Feickert, Hoffman, Hunhoff (Bernie), Kirkeby, Kopp, Lederman, Lust, McLaughlin, Novstrup (David), Olson (Betty), Schlekeway, Solum, Sorenson, Thompson, and Van Gerpen and Senators Fryslie, Bradford, Gant, Garnos, Howie, Maher, Miles, Novstrup (Al), Peterson, Rhoden, and Schmidt

1 FOR AN ACT ENTITLED, An Act to establish certain procedural requirements related to the
2 relocation of electrical lines, communication lines, and pipelines.

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

4 Section 1. That § 31-26-23 be amended to read as follows:

5 31-26-23. ~~When any highway along, under, or over which such facilities have been~~
6 ~~constructed shall be changed, the permit holder shall, upon ninety days' notice in writing,~~
7 ~~remove or relocate such facilities at its own cost.~~ If any highway or public entity infrastructure
8 is constructed or changed within the public right-of-way, the public entity or its representative
9 shall notify any affected known utility that has electrical lines, communications lines, or
10 pipelines and allow the affected utility to participate in a coordination meeting during the
11 planning or design phase of the project, except as provided in this section. The meeting shall
12 allow the public entity and affected known utility to discuss options to minimize construction



1 delays, limit the impact of the construction on utility facilities, and to minimize or eliminate
2 costs associated with any utility removal or relocation. No such option may cause the public
3 entity to incur additional costs unless a written agreement is reached to have the affected utility
4 pay for the additional costs incurred by the public entity.

5 If the public entity determines that coordination meetings will not be held due to the project
6 scope and size, the public entity shall notify any affected known utility and allow the affected
7 utility thirty days to submit written comments on the project.

8 After the coordination meetings or after the written comment period, the permit holder shall,
9 upon ninety days notice in writing, remove or relocate the facilities at its own cost unless other
10 arrangements have been mutually agreed upon in writing. If the public entity, in coordination
11 with the utility, determines that winter weather conditions make removal or relocation
12 impractical, the accrual of time within the ninety-day notification period shall be suspended
13 until conditions make removal or relocation practical. If a utility's facility is discovered during
14 construction that was not identified by the utility during the planning or design phase or during
15 the written comment period if the public entity determines that a coordination meeting will not
16 be held, the ninety-day notice is not required and the utility shall coordinate with the public
17 entity to remove or relocate the facility as soon as practically possible for the project.

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

816Q0500

HOUSE APPROPRIATIONS ENGROSSED NO. **HB 1140** - 2/13/2009

Introduced by: Representatives Juhnke, Carson, Deadrick, Hunhoff (Bernie), Lucas, Moser, Putnam, Van Gerpen, and Vanneman and Senators Garnos, Bartling, Hanson (Gary), Hunhoff (Jean), Kloucek, and Vehle

1 FOR AN ACT ENTITLED, An Act to make an appropriation from the railroad trust fund for
2 the construction of a railroad siding.

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

4 Section 1. There is hereby appropriated from the railroad trust fund created pursuant to § 49-
5 16C-1 the sum of two million five hundred thousand dollars (\$2,500,000), or so much thereof
6 as may be necessary, to the Department of Transportation for the purpose of constructing a
7 railroad siding near Napa Junction in Yankton County. The construction of this railroad siding
8 will complete one of the conditions of the sale of the South Dakota owned core line railroad to
9 the Burlington Northern Santa Fe Railroad that occurred in 2005.

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

12 Section 3. Any amounts appropriated in this Act not lawfully expended or obligated by
13 June 30, 2010, shall revert in accordance with the procedures prescribed in chapter 4-8.

14 Section 4. This Act only becomes effective upon completion of the proposed sale of the



1 state-owned rail line from Napa Junction to Ravinia.

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

721Q0463

HOUSE APPROPRIATIONS

ENGROSSED NO. **HB 1173** - 2/13/2009

Introduced by: Representatives Putnam, Brunner, Burg, Carson, Cronin, Cutler, Deadrick, Dennert, Fargen, Frerichs, Gibson, Greenfield, Hoffman, Hunhoff (Bernie), Hunt, Jensen, Juhnke, Kirkeby, Krebs, Lange, Lucas, McLaughlin, Moser, Noem, Novstrup (David), Olson (Ryan), Peters, Pitts, Rausch, Rave, Romkema, Rounds, Schlekeway, Schrempp, Sorenson, Street, Tidemann, Turbiville, Van Gerpen, Vanneman, and Verchio and Senators Bartling, Ahlers, Bradford, Brown, Fryslie, Garnos, Gillespie, Gray, Hansen (Tom), Hanson (Gary), Hundstad, Hunhoff (Jean), Jerstad, Kloucek, Maher, Merchant, Miles, Nesselhuf, Olson (Russell), Peterson, Rhoden, and Vehle

1 FOR AN ACT ENTITLED, An Act to appropriate money for the Northern Crops Institute.

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

3 Section 1. There is hereby appropriated from the general fund the sum of twenty-five
4 thousand dollars (\$25,000), or so much thereof that may be necessary, to the Department of
5 Agriculture for a grant to the Northern Crops Institute.

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

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



State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

471Q0368

HOUSE AGRICULTURE AND NATURAL RESOURCES

ENGROSSED NO. **HB 1224** - 2/12/2009

Introduced by: Representatives Russell, Brunner, Hoffman, Killer, Kirkeby, Lucas, Olson (Betty), Schrempp, Sly, Van Gerpen, and Verchio and Senators Howie, Bradford, Maher, and Rhoden

1 FOR AN ACT ENTITLED, An Act to place certain restrictions on state participation in a
2 national animal identification system.

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

4 Section 1. That chapter 40-3 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 No officer, agency, or instrumentality of the State of South Dakota, in conjunction with the
7 implementation of any national animal identification system, may:

- 8 (1) Mandate, coerce, use exclusionary tactics, or otherwise force participation in the
9 national animal identification system;
- 10 (2) Register premises (real property), assign premises identification numbers, or
11 otherwise enroll any person in the national animal identification system without the
12 person's prior knowledge and consent;
- 13 (3) Withhold, from any person, indemnity based on the person's status of participation
14 in the national animal identification system; or



1 (4) Deny, revoke, or limit services, certificates, licenses, permits, grants, or other benefits
2 or incentives to any person based on the person's status of participation in the
3 national animal identification system.

4 Section 2. That chapter 40-3 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Nothing in this Act prohibits:

- 7 (1) The State of South Dakota from establishing or participating in disease control
8 programs specifically designed to address a specific disease in a specific species of
9 livestock;
- 10 (2) Private agricultural industry organizations from establishing any source verification
11 program;
- 12 (3) The State of South Dakota or any person from participating in the South Dakota
13 Certified Beef Program established pursuant to chapter 39-24;
- 14 (4) Any person from voluntarily participating in the national animal identification
15 system.

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

727Q0581

HOUSE STATE AFFAIRS ENGROSSED NO. **HB 1239** - 2/9/2009

Introduced by: Representatives Schrempp, Blake, Burg, Dennert, Elliott, Engels, Fargen, Feickert, Gibson, Hoffman, Iron Cloud III, Killer, Kirschman, Lange, Lucas, Nygaard, Olson (Betty), Schlekeway, Solberg, Sorenson, Street, Thompson, Vanderlinde, Verchio, and Wink and Senators Howie, Abdallah, Bradford, Fryslie, Hanson (Gary), Kloucek, Maher, Miles, and Peterson

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

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

5 Section 1. There is hereby created the South Dakota Boxing Commission consisting of five
6 members appointed by the Governor. Not all of the members may be of the same political party.
7 The initial members to be appointed shall draw lots to determine who will hold the two
8 three-year terms, the two two-year terms, and the one one-year term. Thereafter, each member
9 shall serve terms of three years, but no member may serve more than three consecutive terms.

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

13 (1) Govern the conduct of boxing, kickboxing, and mixed martial arts competitions, and



1 sparring exhibitions;

2 (2) Establish license fees for all boxers, kickboxers, mixed martial artists, boxing,
3 kickboxing, and mixed martial arts promoters, managers, judges, timekeepers,
4 cornerpersons, knockdown counters, matchmakers, and referees or other participants;
5 and

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

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

16 Section 4. Boxing, kickboxing, or mixed martial arts competitions or sparring exhibitions
17 held in any city in this state shall be held in conformity to the ordinances of that city, in addition
18 to the requirements of this Act. No boxing, kickboxing, or mixed martial arts competition or
19 sparring exhibition may be held in a city where such contests or exhibitions are prohibited by
20 ordinance.

21 Section 5. All boxing, kickboxing, or mixed martial arts or sparring exhibitions conducted
22 by bona fide educational institutions or by national amateur boxing, kickboxing, or mixed
23 martial arts associations or their local affiliates are exempt from this Act.

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

934Q0499

HOUSE JUDICIARY ENGROSSED NO. **HB 1246** 2/13/2009

Introduced by: Representatives Gosch, Cutler, Hunt, and Schlekeway and Senators Hansen (Tom), Nesselhuf, Turbak Berry, and Vehle

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to service of garnishee
2 summons, affidavit, and garnishment disclosure.

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

4 Section 1. That § 21-18-11 be amended to read as follows:

5 21-18-11. Such garnishee summons, affidavit, and garnishment disclosure may be served
6 by certified mail, return receipt requested, or personally by the sheriff of the county where any
7 garnishee or defendant may be found, or by any other person not a party to the action. If, after
8 reasonable diligence, service by certified mail or personal service by the sheriff is unsuccessful
9 within the time period provided for in § 21-18-10, the plaintiff may file an affidavit stating that
10 fact and may serve such garnishee summons, affidavit, and garnishment disclosure on the
11 defendant by mailing a copy of the documents, together with a copy to the garnishee, to the
12 defendant's last known address by registered mail. The service shall be made and the same
13 returned, with proof of the service, to the person whose name is subscribed thereto, with
14 reasonable diligence. The person subscribing such garnishee summons may, at his option, by



1 an endorsement thereon fix a time for the service thereof, and the service shall then be made
2 accordingly. The garnishee may proceed by complying with either § 21-18-32 or § 21-18-33
3 and, by such compliance, is exonerated from any further liability to any party to the
4 garnishment.

5 Section 2. That § 21-18-10 be amended to read as follows:

6 21-18-10. The garnishee summons and affidavit shall also be served on the defendant to the
7 action, either before or within thirty days after service on a garnishee, ~~except when~~ unless
8 service of the summons in the action is made without the state or by publication. If the
9 defendant appears in the action by attorney, such service may be made upon such attorney or
10 upon the defendant. ~~Unless the garnishee summons is served on the defendant or the defendant's~~
11 ~~attorney in accordance with the provisions of this section, the service on the garnishee is void~~
12 ~~and of no effect from the beginning."~~

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

400Q0733

HOUSE LOCAL GOVERNMENT ENGROSSED NO. **HB 1253** - 2/17/2009

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

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding administration of the
2 catastrophic county poor relief fund.

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

4 Section 1. That § 28-13A-1 be amended to read as follows:

5 28-13A-1. There is established ~~in the state treasury~~ a catastrophic county poor relief fund
6 administered by the ~~Department of Social Services~~ South Dakota Association of County
7 Commissioners and the board of catastrophic county poor relief. Expenditures from the fund,
8 including the cost to administer the program, shall be ~~made in accordance with chapters 4-7, 4-~~
9 ~~7A, 4-8, 4-8A, and 4-8B on warrants drawn by the state auditor on vouchers approved by the~~
10 ~~secretary of social services~~ board.

11 Section 2. That § 28-13A-6 be amended to read as follows:

12 28-13A-6. ~~Beginning January 1, 1985, any~~ Any participating county which has incurred
13 hospital and other medical claims in excess of twenty thousand dollars for any individual
14 eligible for county poor relief in a twelve-month period may apply to the ~~Department of Social~~
15 ~~Services~~ board for funds from the catastrophic county poor relief fund. The application shall



1 include such information as the board of catastrophic county poor relief may prescribe.

2 Section 3. That § 28-13A-7 be amended to read as follows:

3 28-13A-7. ~~Upon recommendation of the secretary of social services, the~~ The catastrophic
4 county poor relief board shall determine if the application is in order and the claim is justified
5 and may approve disbursements to the county for ninety percent of any hospital and other
6 medical claim payments the county has made for the individual in excess of twenty thousand
7 dollars in the twelve-month period and may continue to reimburse the county for ninety percent
8 of hospital and other medical claim payments for the individual for the remainder of that period.

9 Section 4. That § 28-13A-8 be amended to read as follows:

10 28-13A-8. Prior to January thirty-first, the ~~secretary of social services shall report to the~~
11 board shall calculate the actual disbursements from the catastrophic poor relief fund in the
12 previous calendar year and shall compute each participating county's share utilizing the formula
13 established in this chapter. The board shall certify each participating county's share of the total
14 assessment to the county auditor before January thirty-first. Each participating county shall remit
15 its share of the catastrophic county poor relief assessment to the ~~secretary of revenue~~ South
16 Dakota Association of County Commissioners on or before March fifteenth of each year.

17 Section 5. That § 28-13A-10 be amended to read as follows:

18 28-13A-10. If it appears to the ~~secretary of social services~~ board that the catastrophic county
19 poor relief fund reserve is in danger of being completely depleted, ~~he shall report to the board~~
20 ~~and may recommend~~ determine a supplemental assessment. ~~The board shall determine if a~~
21 ~~supplemental assessment~~ is required and if so shall certify to each participating county its share
22 as calculated by the factors included in § 28-13A-9.

23 Section 6. That § 28-13A-11 be amended to read as follows:

24 28-13A-11. The ~~secretary of revenue~~ board may accept any gifts, contributions, or funds

- 1 obtained from any other source for the purpose of carrying out the provisions of this chapter.
- 2 The administration and expenditure of these funds shall be in accordance with this chapter.

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

724Q0476

HOUSE COMMERCE ENGROSSED NO. **HB 1260** - 2/13/2009

Introduced by: Representatives Hamiel, Carson, Cronin, Curd, Dennert, Faehn, Frerichs, Greenfield, Hoffman, Hunhoff (Bernie), Kirkeby, Krebs, Lederman, McLaughlin, Schlekeway, Sly, Vanneman, and Wink and Senators Gant, Abdallah, Hansen (Tom), Heidepriem, Knudson, Tieszen, and Vehle

1 FOR AN ACT ENTITLED, An Act to require that a request for proposals be issued for certain
2 state contracts for professional services.

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

4 Section 1. That chapter 5-18 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 For the purposes of this Act, the term, professional services, means services arising out of
7 a vocation, calling, occupation, or employment involving specialized knowledge, labor, or skill,
8 and the labor or skill involved is predominantly mental or intellectual, rather than physical or
9 manual.

10 Section 2. That chapter 5-18 be amended by adding thereto a NEW SECTION to read as
11 follows:

12 For the purposes of this Act, the term, request for proposals, means the document or
13 publication whereby a state agency solicits proposals for a professional services contract.



1 Section 3. That chapter 5-18 be amended by adding thereto a NEW SECTION to read as
2 follows:

3 No agency of the state may award or renew a contract for professional services exceeding
4 twenty-five thousand dollars without complying with the procedures set forth in this Act. Any
5 agency seeking such professional services shall issue a request for proposals. The agency shall
6 publish any request for proposals issued pursuant to this section on the electronic procurement
7 system maintained by the Bureau of Administration. The request for proposals shall include the
8 procedures for the solicitation and award of the contract.

9 Section 4. That chapter 5-18 be amended by adding thereto a NEW SECTION to read as
10 follows:

11 The request for proposals shall state the relative importance of evaluation criteria to be used
12 in the ranking of prospective contractors. The agency shall include the following evaluation
13 criteria in any request for proposals:

- 14 (1) Specialized expertise, capabilities, and technical competence as demonstrated by the
15 proposed approach and methodology to meet the project requirements;
- 16 (2) Resources available to perform the work, including any specialized services, within
17 the specified time limits for the project;
- 18 (3) Record of past performance, including price and cost data from previous projects,
19 quality of work, ability to meet schedules, cost control, and contract administration;
- 20 (4) Availability to the project locale;
- 21 (5) Familiarity with the project locale;
- 22 (6) Proposed project management techniques; and
- 23 (7) Ability and proven history in handling special project constraints.

24 Section 5. That chapter 5-18 be amended by adding thereto a NEW SECTION to read as

1 follows:

2 The agency and the highest ranked contractor shall mutually discuss and refine the scope of
3 services for the project and shall negotiate terms, including compensation and performance
4 schedule. The compensation level paid shall be reasonable and fair to the agency, as determined
5 by the agency. If the agency and the highest ranked contractor are unable for any reason to
6 negotiate a contract at a compensation level that is reasonable and fair to the agency, the agency
7 shall, either orally or in writing, terminate negotiations with the contractor. The agency may then
8 negotiate with the next highest ranked contractor. The negotiation process may continue through
9 successive contractors, according to agency ranking, until an agreement is reached or the agency
10 terminates the contracting process.

11 Section 6. That chapter 5-18 be amended by adding thereto a NEW SECTION to read as
12 follows:

13 A register of proposals shall be prepared and maintained by any state agency issuing a
14 request for proposals for a professional service contract. The register shall contain the names
15 of any person whose qualifications were considered and the name of the person that was
16 awarded the contract. Any professional service contract and the documentation which was the
17 basis for the contract shall be public. The qualifications and any other documentation of any
18 person not issued a contract shall remain confidential.

19 Section 7. That chapter 5-18 be amended by adding thereto a NEW SECTION to read as
20 follows:

21 The provisions of this Act do not apply to contracts issued for legal or medical services.

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

447Q0634

HOUSE COMMERCE ENGROSSED NO. **HB 1268** - 2/13/2009

Introduced by: Representative Dreyer and Senator Nesselhuf

1 FOR AN ACT ENTITLED, An Act to revise certain provisions concerning the maximum
2 number of alcoholic beverage retail licenses that may be held by any person, corporation,
3 or business.

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

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

6 35-4-4. No person, corporation, or business entity may hold or have an interest in more than
7 three retail licenses issued under subdivision 35-4-2(3), (4), (6), or (13). However, a person,
8 corporation, or business entity may hold or have an interest in ~~three~~ additional retail licenses
9 issued under subdivision 35-4-2(4) if the licensee derives more than fifty percent of the
10 licensee's annual gross receipts from the sale of food at the location where the license is held.
11 Any person, corporation, or business entity may hold or have an interest in additional retail
12 licenses issued under subdivision 35-4-2(3) in municipalities of the first class if the licensee
13 derives more than fifty percent of the licensee's annual gross receipts from the sale of food,
14 prepared food, and food ingredients at the location where the license is held. Any such new
15 licensee under subdivision 35-4-2(3) shall sell its alcoholic beverages, other than malt



1 beverages, in an area which is separated by a physical barrier from the rest of the establishment.
2 For the purposes of this section, a physical barrier includes a wall or fence erected for the sole
3 purpose of separating the area in which the alcoholic beverages are sold from the rest of the
4 establishment. For purposes of this section, location means one contiguous piece of real estate
5 on which sales are generated by the licensee.

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

851Q0346

HOUSE LOCAL GOVERNMENT ENGROSSED NO. **HB 1275** - 2/17/2009

Introduced by: Representatives Solum, Blake, Cronin, Faehn, Gosch, Steele, Thompson, Turbiville, and Vanderlinde and Senators Miles, Frysliie, Merchant, and Peterson

1 FOR AN ACT ENTITLED, An Act to authorize electronic bingo devices.

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

3 Section 1. That § 22-25-23 be amended to read as follows:

4 22-25-23. As used in this chapter, "the term, bingo", is that game in which each player is
5 supplied a card ~~or~~, board, or electronic bingo device containing five adjoining horizontal and
6 vertical rows with five spaces in each row each containing a number or figure therein, except
7 for the central row with four spaces, each containing a number or figure therein and the word
8 "free", marked in the center space thereof. Upon announcement by the person ~~or persons~~
9 conducting the game of any number or figure appearing on the player's card ~~or~~, board, or
10 electronic bingo device, the space containing ~~said figures~~ the figure or number is covered by the
11 player. ~~When~~ If the player ~~shall have covered~~ covers all five spaces in any horizontal or vertical
12 row, ~~or shall have covered~~ covers four spaces and the "free" space in a five space diagonal row,
13 ~~or shall have covered~~ covers the required combination of spaces in some other preannounced
14 pattern or arrangement, ~~such~~ the combination of spaces covered ~~shall constitute~~ constitutes



1 bingo." The player ~~or players~~ to first announce "bingo" ~~are~~ is awarded money, merchandise, or
2 some other consideration by the person ~~or persons~~ conducting the game. For purposes of this
3 section, an electronic bingo device does not include any device which may be activated for play
4 by a player inserting coins, tokens, tickets, vouchers, or similar objects of value or which is
5 capable of dispensing coins, tokens, vouchers, tickets, or any similar object of value.

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

636Q0717

HOUSE TAXATION ENGROSSED NO. **HB 1276** - 2/17/2009

Introduced by: Representatives Rausch, Noem, Rave, Solum, and Street and Senators Merchant, Fryslie, and Peterson

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the application for
2 tax refunds for the construction of certain agricultural processing and new business
3 facilities.

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

5 Section 1. That § 10-45B-6 be amended to read as follows:

6 10-45B-6. Any person desiring to claim a refund pursuant to this chapter shall apply for a
7 permit from the secretary prior to or within one hundred eighty days after the construction date.
8 However, any project with a construction date between January 1, 2006, and July 1, 2006, that
9 would otherwise qualify for a refund shall apply for a permit by August 1, 2006. In addition, any
10 person that has a project with a construction date between October 1, 2007, and November 1,
11 2007, that would otherwise qualify for a refund, but did not apply for a permit before January 1,
12 2009, may apply for a permit by August 1, 2009, if the person agrees to the conditions
13 established in section 2 of this Act. The application for a permit shall be submitted on a form
14 prescribed by the secretary. A separate application shall be made and submitted for each project.



1 Upon approval of the application, the secretary shall issue a permit entitling the applicant to
2 submit refund claims as provided by §§ 10-45B-7 and 10-45B-8. Such permit or refund claims
3 are not assignable or transferable except as collateral or security pursuant to chapter 57A-9.

4 Section 2. That chapter 10-45B be amended by adding thereto a NEW SECTION to read as
5 follows:

6 The person agrees to only receive seventy-five percent of the total refund or credit for the
7 sales and use tax and contractors' excise tax that the person would otherwise qualify to receive
8 pursuant to this chapter.

9 Notwithstanding the provisions of § 10-45B-8, the secretary shall determine and pay five
10 percent of the amount of the tax refund within ninety days of receipt of the return to the claimant
11 in accordance with §§ 10-59-22 and 10-59-23, and ninety-five percent shall be withheld by the
12 department until July 1, 2011. No interest shall be paid on the refund amount.

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

951Q0509

HOUSE TRANSPORTATION

ENGROSSED NO. **HB 1281** - 2/12/2009

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

Introduced by: Representatives Kirkeby, Brunner, Feickert, Kopp, Krebs, Lange, Street, and Verchio and Senators Schmidt, Dempster, and Rhoden

1 FOR AN ACT ENTITLED, An Act to enhance funding for state highways by increasing fees
2 on certain signs, displays, or devices.

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

4 Section 1. That § 31-29-71.1 be amended to read as follows:

5 31-29-71.1. Any application for the permit required by § 31-29-71 shall be accompanied by
6 the fee specified by the following schedule:

- 7 (1) If the advertising area does not exceed fifty square feet, the fee is ~~eight~~ ten dollars;
- 8 (2) If the area exceeds fifty square feet but does not exceed three hundred square feet, the
9 fee is ~~twelve~~ fifteen dollars;
- 10 (3) If the area exceeds three hundred square feet but does not exceed five hundred square
11 feet, the fee is ~~sixteen~~ twenty dollars;
- 12 (4) If the area exceeds five hundred square feet but does not exceed six hundred square
13 feet, the fee is ~~twenty~~ twenty-five dollars;
- 14 (5) If the area exceeds six hundred square feet, the fee is ~~thirty-two~~ forty dollars.



1 A sign less than sixty-five square feet owned and maintained by a church is exempt from
2 the fees under this section.