

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

400Q0315

HOUSE TAXATION ENGROSSED NO. **SB 42** - 3/9/2009

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

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

1 FOR AN ACT ENTITLED, An Act to provide an application deadline for sales and use tax
2 refunds regarding certain storage facilities.

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

4 Section 1. That chapter 10-59 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Notwithstanding any provision of this chapter, any claim for refund that is based upon or
7 arose because of the South Dakota Supreme Court's decision in In the Matter of the Sales Tax
8 Liability of James Pirmantgen & Patricia Carlson, 2008 SD 127 (December 23, 2008), must be
9 filed with the Department of Revenue and Regulation on or before July 1, 2009.
10 Notwithstanding any provision of this chapter, any claim for refund that is based upon or arose
11 because of the South Dakota Supreme Court's decision in In the Matter of the Sales Tax
12 Liability of James Pirmantgen & Patricia Carlson, 2008 SD 127 (December 23, 2008), that is
13 filed with the Department of Revenue and Regulation after July 1, 2009, is forever barred from
14 refund eligibility.



State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

400Q0272

HOUSE APPROPRIATIONS ENGROSSED NO. **SB 50** - 3/9/2009

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

1 FOR AN ACT ENTITLED, An Act to revise the General Appropriations Act for fiscal year
2 2009.

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

4 Section 1. That section 4 of Chapter 27 of the 2008 Session Laws be amended to read as
5 follows:

6 DEPARTMENT OF AGRICULTURE

7 (2) Agriculture Services and Assistance

8 Operating Expenses, Federal Funds, delete "\$1,349,591" and insert "\$2,524,591"

9 Adjust all totals accordingly.

10 Section 2. That section 4 of Chapter 27 of the 2008 Session Laws be amended to read as
11 follows:

12 DEPARTMENT OF AGRICULTURE

13 (3) Agriculture Development and Promotion

14 Operating Expenses, Federal Funds, delete "\$1,236,222" and insert "\$17,911,222"



1 Adjust all totals accordingly.

2 Section 3. That section 5 of chapter 27 of the 2008 Session Laws be amended to read as
3 follows:

4 DEPARTMENT OF TOURISM AND STATE DEVELOPMENT

5 (1) Economic Development

6 Operating Expenses, Federal Funds, delete "10,854,778" and insert "12,654,778"

7 Adjust all totals accordingly.

8 Section 4. That section 5 of chapter 27 of the 2008 Session Laws be amended to read as
9 follows:

10 DEPARTMENT OF TOURISM AND STATE DEVELOPMENT

11 (7) South Dakota Housing Development Authority-Informational

12 Operating Expenses, Federal Funds, delete "592,289" and insert "612,289"

13 Adjust all totals accordingly.

14 Section 5. That section 6 of chapter 27 of the 2008 Session Laws be amended to read as
15 follows:

16 DEPARTMENT OF GAME, FISH AND PARKS

17 (5) Parks and Recreation

18 Operating Expenses, General Funds, delete "\$921,804" and insert "\$1,078,186"

19 (6) Development and Improvement, Parks and Recreation

20 Operating Expenses, Federal Funds, delete "\$4,719,485" and insert "\$5,094,485"

21 Adjust all totals accordingly.

22 Section 6. That section 11 of chapter 27 of the 2008 Session Laws be amended to read as
23 follows:

24 DEPARTMENT OF EDUCATION

1 (11) Education Resources

2 Operating Expenses, Federal Funds, delete "\$151,953,186" and insert "\$170,540,638"

3 Adjust all totals accordingly.

4 Section 7. That section 10 of Chapter 27 of the 2008 Session Laws be amended to read as

5 follows:

6 DEPARTMENT OF TRANSPORTATION

7 (1) General Operations

8 Operating Expenses, Federal Funds, delete "\$16,734,391" and insert "\$17,734,391"

9 Adjust all totals accordingly.

10 Section 8. That Section 7 of Chapter 27 of the 2008 Session Laws be amended to read as

11 follows:

12 DEPARTMENT OF SOCIAL SERVICES

13 (2) Economic Assistance

14 Operating Expenses, Federal Funds, delete "\$34,530,458" and insert "\$38,810,458"

15 Adjust all totals accordingly.

16 Section 9. That Section 7 of Chapter 27 of the 2008 Session Laws be amended to read as

17 follows:

18 DEPARTMENT OF SOCIAL SERVICES

19 (4) Children's Services

20 Personal Services, General Funds, delete "\$8,817,418" and insert "\$8,170,418"

21 Personal Services, Federal Funds, delete "\$8,325,510" and insert "\$8,972,510"

22 Operating Expenses, General Funds, delete "\$23,373,230" and insert "\$21,592,545"

23 Operating Expenses, Federal Funds, delete "\$43,174,118" and insert "\$45,954,803"

24 Adjust all totals accordingly.

1 Section 10. That section 7 of chapter 27 of the 2008 Session Laws be amended to read as
2 follows:

3 DEPARTMENT OF SOCIAL SERVICES

4 (3) Medical and Adult Services

5 Operating Expenses, General Funds, delete "\$215,380,541" and insert "\$193,104,770"

6 Operating Expenses, Federal Funds, delete "\$408,133,484" and insert "\$430,946,347"

7 Adjust all totals accordingly.

8 Section 11. That section 11 of chapter 27 of the 2008 Session Laws be amended to read as
9 follows:

10 DEPARTMENT OF EDUCATION

11 (11) Education Resources

12 Operating Expenses, General Funds, delete "\$6,044,816" and insert "\$6,032,934"

13 Adjust all totals accordingly.

14 Section 12. That section 11 of chapter 27 of the 2008 Session Laws be amended to read as
15 follows:

16 DEPARTMENT OF EDUCATION

17 (2) State Aid to General Education

18 Operating Expenses, General Funds, delete "\$335,267,328" and insert "\$314,403,735"

19 Operating Expenses, Federal Funds, delete "\$0" and insert "\$20,863,593"

20 (9) Postsecondary Vocational Education

21 Operating Expenses, General Funds, delete "\$19,487,140" and insert "\$18,281,171"

22 Operating Expenses, Federal Funds, delete "\$0" and insert "\$1,205,969"

23 Adjust all totals accordingly.

24 Section 13. That section 13 of chapter 27 of the 2008 Session Laws be amended to read as

1 follows:

2 BOARD OF REGENTS

3 (1) Regents Central Office

4 Operating Expenses, General Funds, delete "\$10,971,525" and insert "\$10,539,686"

5 Operating Expenses, Other Funds, delete "\$34,935,943" and insert "\$36,365,943"

6 Adjust all totals accordingly.

7 (3) University of South Dakota Proper

8 Operating Expenses, General Funds, delete "\$2,438,077" and insert "\$190,921"

9 Operating Expenses, Federal Funds, delete "\$11,492,161" and insert "\$13,739,317"

10 Adjust all totals accordingly.

11 (4) University of South Dakota School of Medicine

12 Operating Expenses, General Funds, delete "\$2,987,906" and insert "\$1,451,932"

13 Operating Expenses, Federal funds, delete "\$10,910,268" and insert "\$12,446,242"

14 Adjust all totals accordingly.

15 (5) South Dakota State University Proper

16 Operating Expenses, General Funds, delete "\$4,221,680" and insert "\$907,645"

17 Operating Expenses, Federal Funds, delete "\$19,964,750" and insert "\$23,278,785"

18 Operating Expenses, Other Funds, delete "\$51,907,708" and insert "\$53,412,086"

19 Adjust all totals accordingly.

20 (7) Agriculture Experiment Station

21 Operating Expenses, Other Funds, delete "\$5,601,541" and insert "\$5,874,556"

22 Adjust all totals accordingly.

23 (8) South Dakota School of Mines and Technology

24 Operating Expenses, General Funds, delete "\$1,604, 245" and insert "\$522,105"

1 Operating Expenses, Federal Funds, delete "\$10,170,639" and insert "\$11,252,779"

2 Adjust all totals accordingly.

3 (9) Northern State University

4 Operating Expenses, General Funds, delete "\$1,550,539" and insert "\$675,517"

5 Operating Expenses, Federal Funds, delete "\$3,235,700" and insert "\$4,110,722"

6 Adjust all totals accordingly.

7 (10) Black Hills State University

8 Operating Expenses, General Funds, delete "\$746,186" and insert "\$144,361"

9 Operating Expenses, Federal Funds, delete "\$11,773,747" and insert "\$12,375,572"

10 Adjust all totals accordingly.

11 (11) Dakota State University

12 Personal Services, Other Funds, delete "\$7,948,306" and insert "\$8,708,306"

13 Operating Expenses, General Funds, delete "\$1,030,169" and insert "\$424,265"

14 Operating Expenses, Federal Funds, delete "\$2,197,196" and insert "\$2,803,100"

15 Operating Expenses, Other Funds, delete "\$8,506,760" and insert "\$9,546,760"

16 Adjust all totals accordingly.

17 Section 14. That section 14 of chapter 27 of the 2008 Session Laws be amended to read as

18 follows:

19 DEPARTMENT OF MILITARY AND VETERANS' AFFAIRS

20 (5) State Veterans' Home

21 Operating Expenses, General Funds, delete "\$852,587" and insert "\$923,051"

22 Adjust all totals accordingly.

23 Section 15. That section 16 of chapter 27 of the 2008 Session Laws be amended to read as

24 follows:

1 DEPARTMENT OF HUMAN SERVICES

2 (13) Community Mental Health

3 Operating Expenses, Federal Funds, delete "\$11,841,380" and insert "\$12,618,086"

4 Adjust all totals accordingly.

5 Section 16. That section 16 of chapter 27 of the 2008 Session Laws be amended to read as
6 follows:

7 DEPARTMENT OF HUMAN SERVICES

8 (5) Rehabilitation Services

9 Operating Expenses, Federal Funds, delete "\$11,869,955" and insert "\$12,770,260"

10 (11) Services to the Blind and Visually Impaired

11 Operating Expenses, Federal Funds, delete "\$1,270,094" and insert "\$1,630,094"

12 Adjust all totals accordingly.

13 Section 17. That section 15 of chapter 27 of the 2008 Session Laws be amended to read as
14 follows:

15 DEPARTMENT OF CORRECTIONS

16 (8) Juvenile Community Corrections

17 Operating Expenses, General Funds, delete "\$10,152,225" and insert "\$9,474,018"

18 Operating Expenses, Federal Funds, delete "\$8,126,432" and insert "\$8,804,639"

19 Adjust all totals accordingly.

20 Section 18. That section 16 of chapter 27 of the 2008 Session Laws be amended to read as
21 follows:

22 DEPARTMENT OF HUMAN SERVICES

23 (1) Administration, Secretary of Human Services

24 Operating Expenses, General Funds, delete "\$320,749" and insert "\$309,113"

1 Operating Expenses, Federal Funds, delete "\$151,635" and insert "\$163,271"

2 (2) Developmental Disabilities

3 Operating Expenses, General Funds, delete "\$37,362,787" and insert "\$33,477,031"

4 Operating Expenses, Federal Funds, delete "\$60,250,915" and insert "\$64,136,671"

5 (3) South Dakota Developmental Center-Redfield

6 Operating Expenses, General Funds, delete "\$2,331,175" and insert "\$1,237,260"

7 Operating Expenses, Federal Funds, delete "\$3,318,223" and insert "\$4,412,138"

8 (4) Alcohol and Drug Abuse

9 Operating Expenses, General Funds, delete "\$7,111,712" and insert "\$6,917,287"

10 Operating Expenses, Federal Funds, delete "\$11,139,099" and insert "\$11,333,524"

11 (5) Rehabilitation Services

12 Operating Expenses, General Funds, delete "\$3,544,834" and insert "\$3,364,529"

13 (12) Human Services Center

14 Operating Expenses, General Funds, delete "\$9,927,038" and insert "\$9,470,887"

15 Operating Expenses, Federal Funds, delete "\$1,544,101" and insert "\$2,000,252"

16 (13) Community Mental Health

17 Operating Expenses, General Funds, delete "\$14,657,503" and insert "\$14,005,797"

18 Adjust all totals accordingly.

19 Section 19. That section 15 of chapter 27 of the 2008 Session Laws be amended to read as
20 follows:

21 DEPARTMENT OF CORRECTIONS

22 (1) Administration, Central Office

23 Operating Expenses, General Funds, delete "\$16,687,524" and insert "\$9,493,937"

24 Operating Expenses, Federal Funds, delete "\$2,478,818" and insert "\$9,672,405"

1 Adjust all totals accordingly.

2 Section 20. That chapter 27 of the 2008 Session Laws be amended by adding thereto a NEW

3 SECTION to read as follows:

4 Section 38. The state treasurer shall transfer to the state general fund one hundred fifty-six

5 thousand, three hundred eighty-two dollars (\$156,382) from the Custer State Park bond

6 redemption fund to make the bond payment for Custer State Park improvements.

7 Section 21. Funds appropriated by this Act which are unspent at the end of fiscal year 2009

8 may be carried over to fiscal year 2010.

9 Section 22. This Act is effective June 29, 2009.

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

400Q0363

HOUSE STATE AFFAIRS ENGROSSED NO. **SB 68**
3/9/2009

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

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

1 FOR AN ACT ENTITLED, An Act to authorize the establishment, operation, and control of
2 research parks on state land in Sioux Falls.

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

4 Section 1. The Board of Regents may provide for the construction, development,
5 maintenance, and operation of a research park on the property in Sioux Falls acquired pursuant
6 to chapter 106 of the 2006 Session Laws. The research park authorized by this section may not
7 occupy more than eighty acres. All limitations imposed by chapter 106 of the 2006 Session
8 Laws upon the use of University Center land shall continue in full force and effect with the
9 exception of the separately platted tracts occupied by the research park authorized by this
10 section. Such separately platted tracts shall, instead, be subject to the limitations on the use of
11 research parks stated in this Act.



State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

957Q0356

HOUSE APPROPRIATIONS ENGROSSED NO. **SB 72** - 3/6/2009

Introduced by: Senators Gray, Haverly, Hunhoff (Jean), and Miles and Representatives Rave, Blake, Hunhoff (Bernie), and Tidemann

1 FOR AN ACT ENTITLED, An Act to make an appropriation to initiate a master of social work
2 degree program in higher education.

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

4 Section 1. There is hereby appropriated from the general fund the sum of three dollars (\$3),
5 or so much thereof as may be necessary, to the Board of Regents to develop a master's degree
6 program in social work at the University of South Dakota.

7 Section 2. The executive director of the Board of Regents shall approve vouchers and the
8 state auditor shall draw warrants to pay expenditures authorized by this Act.



State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

933Q0345

SENATE APPROPRIATIONS ENGROSSED NO. **SB 74** - 2/5/2009

Introduced by: Senators Abdallah, Bartling, Bradford, Dempster, Gant, Gillespie, Gray, Hansen (Tom), Heidepriem, Maher, and Rhoden and Representatives Rave, Blake, Cutler, Feickert, Juhnke, Kirkeby, Lederman, Solberg, Steele, Thompson, and Vanderlinde

1 FOR AN ACT ENTITLED, An Act to direct the Office of the Attorney General to study the
2 creation of a state medical examiner system and to declare an emergency.

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

4 Section 1. The Office of the Attorney General shall conduct a study of the composition,
5 scope, and administration of a state medical examiner system in South Dakota. The study shall
6 gather the data and information regarding the creation of a state medical examiner system,
7 examine other states' medical examiner systems, and analyze the range of issues affecting the
8 creation, organization, and functions of a state medical examiner system. The Office of the
9 Attorney General shall consult with all appropriate interests including sheriffs, police chiefs,
10 county commissioners, criminal investigators, prosecutors, funeral directors, forensic
11 pathologists, the Department of Health, and the University of South Dakota School of Medicine.
12 The Office of the Attorney General shall submit a report regarding its findings and
13 recommendations and draft legislation, if any, to the Executive Board of the Legislative



1 Research Council by November 1, 2009.

2 Section 2. Whereas, this Act is necessary for the immediate preservation of the public peace,

3 health, or safety, an emergency is hereby declared to exist, and this Act shall be in full force and

4 effect from and after its passage and approval.

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

547Q0011

HOUSE JUDICIARY ENGROSSED NO. **SB 78** - 3/9/2009

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

Introduced by: Senators Abdallah, Adelstein, Ahlers, Bartling, Bradford, Brown, Dempster, Fryslie, Garnos, Gillespie, Gray, Hansen (Tom), Hanson (Gary), Haverly, Heidepriem, Hundstad, Jerstad, Kloucek, Maher, Merchant, Miles, Nelson, Nesselhuf, Novstrup (Al), Olson (Russell), Peterson, Rhoden, Schmidt, Tieszen, Turbak Berry, and Vehle and Representatives Engels, Bolin, Cutler, Gibson, Juhnke, Kirkeby, McLaughlin, and Thompson

1 FOR AN ACT ENTITLED, An Act to provide for a plan to be presented to the Legislature
2 regarding the need for additional drug courts and certain other correctional issues.

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

4 Section 1. The findings and recommendations of the Unified Judicial System's study
5 determining the need for an additional drug court or drug courts to be established in judicial
6 circuits with the highest volume of felony convictions shall be incorporated into a plan to be
7 presented to the 2010 Legislature for possible implementation in fiscal year 2011. The plan may
8 also include other proposals designed to reduce the prison population in a manner that does not
9 jeopardize the public safety of South Dakota citizens.



State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

285Q0288

HOUSE TAXATION ENGROSSED NO. **SB 80** - 3/3/2009

Introduced by: Senators Knudson and Heidepriem and Representatives Faehn and Hunhoff
(Bernie)

1 FOR AN ACT ENTITLED, An Act to revise the property tax levies for the general fund of a
2 school district.

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

4 Section 1. That § 10-12-42 be amended to read as follows:

5 10-12-42. For taxes payable in ~~2009~~ 2010 and each year thereafter, the levy for the general
6 fund of a school district shall be as follows:

7 (1) The maximum tax levy shall be eight dollars and ~~seventy-eight~~ seventy-six cents per
8 thousand dollars of taxable valuation subject to the limitations on agricultural
9 property as provided in subdivision (2) of this section, owner-occupied property as
10 provided for in subdivision (3) of this section, and nonagricultural acreage property
11 as provided for in subdivision (4) of this section;

12 (2) The maximum tax levy on agricultural property for such school district shall be two
13 dollars and ~~sixty-one~~ fifty-nine cents per thousand dollars of taxable valuation. If the
14 district's levies are less than the maximum levies as stated in this section, the levies



1 shall maintain the same proportion to each other as represented in the mathematical
2 relationship at the maximum levies;

3 (3) The maximum tax levy for an owner-occupied single-family dwelling as defined in
4 § 10-13-40, for such school district may not exceed four dollars and ~~ten~~ eight cents
5 per thousand dollars of taxable valuation. If the district's levies are less than the
6 maximum levies as stated in this section, the levies shall maintain the same
7 proportion to each other as represented in the mathematical relationship at the
8 maximum levies; and

9 (4) The maximum tax levy on nonagricultural acreage property as defined in § 10-6-
10 33.14, for such school district shall be three dollars and ~~sixty-one~~ fifty-nine cents per
11 thousand dollars of taxable valuation. If the district's levies are less than the
12 maximum levies as stated in this section, the levies shall maintain the same
13 proportion to each other as represented in the mathematical relationship at the
14 maximum levies.

15 All levies in this section shall be imposed on valuations where the median level of
16 assessment represents eighty-five percent of market value as determined by the Department of
17 Revenue and Regulation. These valuations shall be used for all school funding purposes. If the
18 district has imposed an excess levy pursuant to § 10-12-43, the levies shall maintain the same
19 proportion to each other as represented in the mathematical relationship at the maximum levies
20 in this section. The school district may elect to tax at less than the maximum amounts set forth
21 in this section.

22 Section 2. That section 21 of chapter 44 of the 2008 Session Laws be repealed.

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

832Q0310

HOUSE APPROPRIATIONS

ENGROSSED NO. **SB 117** - 3/9/2009

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

Introduced by: Senators Knudson, Adelstein, Bartling, Bradford, Gillespie, Hanson (Gary), Heidepriem, Jerstad, Maher, Merchant, Miles, Peterson, Schmidt, Turbak Berry, and Vehle and Representatives Faehn, Burg, Carson, Cutler, Dennert, Elliott, Feinstein, Frerichs, Greenfield, Hunhoff (Bernie), Kirkeby, Krebs, Lange, Lucas, Noem, Olson (Betty), Solum, Street, Thompson, Turbiville, and Vanneman

1 FOR AN ACT ENTITLED, An Act to revise certain budgetary provisions relating to certain
2 funds received from the federal government.

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

4 Section 1. The provisions of §§ 4-7-32, 4-7-39, 4-8A-8, 4-8-17.1, and 31-2-14 do not apply
5 to any funds received by the State of South Dakota from the federal government through the
6 American Recovery and Reinvestment Act of 2009, P.L. 111-5.

7 Section 2. The Bureau of Finance and Management shall provide a report on the same
8 schedule required for federal purposes, to the special committee created in § 4-8A-2 detailing
9 all receipts, expenditures, transfers, encumbrances, carryovers and any other information as
10 required for federal reporting on funds received by the State of South Dakota from the federal
11 government through the American Recovery and Reinvestment Act of 2009, P.L. 111-5.

12 Section 3. This Act is effective June 29, 2009, and expires on June 30, 2011.



State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

167Q0583

SENATE STATE AFFAIRS

ENGROSSED NO. **SB 143** - 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: Senators Gant, Abdallah, Gray, Miles, Nesselhuf, Olson (Russell), Schmidt, and Turbak Berry and Representatives Schlekeway, Bolin, Brunner, Curd, Cutler, Hamiel, Kirkeby, Lucas, and Steele

1 FOR AN ACT ENTITLED, An Act to require a searchable internet website for the posting and
2 access of certain public records and financial information.

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

4 Section 1. The state shall maintain a searchable internet website for the posting and access
5 of public records and financial information of the state, municipalities, counties, school districts,
6 and other political subdivisions. The content and operation of the website shall be administered
7 jointly by the Bureau of Administration, Bureau of Finance and Management, and Bureau of
8 Information and Telecommunications.



State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

428Q0588

HOUSE STATE AFFAIRS

ENGROSSED NO. **SB 144** - 3/9/2009

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

Introduced by: Senators Gant, Abdallah, Gray, Miles, Nesselhuf, Schmidt, and Turbak Berry
and Representatives Kirkeby, Brunner, Cutler, Engels, Schlekeway, and
Vanderlinde

1 FOR AN ACT ENTITLED, An Act to require certain contracts to be retained in the contract's
2 original format or made available by a publicly accessible internet website or database.

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

4 Section 1. Any written contract entered by the state, a county, a municipality, or a political
5 subdivision shall be retained in the contract's original format or a searchable and reproducible
6 format. Each contract shall be stored with the records retention officer of that entity or with the
7 designee of the records retention officer unless the contract is required by law to be retained by
8 some other person. Each contract shall be stored during the term of the contract and for two
9 years after the expiration of the contract term.

10 Section 2. Any contract retained pursuant to section 1 of this Act may be made available to
11 the public through a publicly accessible internet website or database.



State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

583Q0601

HOUSE STATE AFFAIRS ENGROSSED NO. **SB 147** - 3/9/2009

Introduced by: Senators Knudson, Adelstein, Dempster, Gant, Gray, Hansen (Tom), Heidepriem, Rhoden, and Turbak Berry and Representatives Faehn, Cutler, Hunhoff (Bernie), Kirschman, Lust, Noem, Rausch, Rave, and Schlekeway

1 FOR AN ACT ENTITLED, An Act to provide for public access to public records, to provide
2 certain exemptions, and to provide for judicial remedies for noncompliance.

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

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

5 1-27-1. ~~If the keeping of a record, or the preservation of a document or other instrument is~~
6 ~~required of an officer or public servant under any statute of this state, the officer or public~~
7 ~~servant shall keep the record, document, or other instrument available and open to inspection~~
8 ~~by any person during normal business hours. Any employment examination or performance~~
9 ~~appraisal record maintained by the Bureau of Personnel is excluded from this requirement.~~
10 ~~— Any subscription or license holder list maintained by the Department of Game, Fish and~~
11 ~~Parks may be made available to the public for a reasonable fee. State agencies are exempt from~~
12 ~~payment of this fee for approved state use. The Game, Fish and Parks Commission may~~
13 ~~promulgate rules pursuant to chapter 1-26 to establish criteria for the sale and to establish the~~
14 ~~fee for the sale of such lists.~~



1 ~~Any automobile liability insurer licensed in the state, or its certified authorized agent, may~~
2 ~~have access to the name and address of any person licensed or permitted to drive a motor vehicle~~
3 ~~solely for the purpose of verifying insurance applicant and policyholder information. An insurer~~
4 ~~requesting any such name and address shall pay a reasonable fee to cover the costs of producing~~
5 ~~such name and address. The Department of Public Safety shall set such fee by rules promulgated~~
6 ~~pursuant to chapter 1-26.~~

7 ~~Any list released or distributed under this section may not be resold or redistributed.~~
8 ~~Violation of this section by the resale or redistribution of any such list is a Class 2 misdemeanor.~~
9 Except as otherwise expressly provided by statute, all citizens of this state, and all other persons
10 interested in the examination of the public records, as defined in section 2 of this Act, are hereby
11 fully empowered and authorized to examine such public record, and make memoranda and
12 abstracts therefrom during the hours the respective offices are open for the ordinary transaction
13 of business and, unless federal copyright law otherwise provides, obtain copies of public records
14 in accordance with this chapter.

15 Each government entity or elected or appointed government official shall, during normal
16 business hours, make available to the public for inspection and copying in the manner set forth
17 in this chapter all public records held by that entity or official.

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

20 Unless any other statute, ordinance, or rule expressly provides that particular information
21 or records may not be made public, public records include all records and documents, regardless
22 of physical form, of or belonging to this state, any county, municipality, political subdivision,
23 or tax-supported district in this state, or any agency, branch, department, board, bureau,
24 commission, council, subunit, or committee of any of the foregoing. Data which is a public

1 record in its original form remains a public record when maintained in any other form. For the
2 purposes of this Act, a tax-supported district includes any business improvement district created
3 pursuant to chapter 9-55.

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

6 If a custodian of a public record of a county, municipality, political subdivision, or tax-
7 supported district provides to a member of the public, upon request, a copy of the public record
8 by transmitting it from a modem to an outside modem, a reasonable fee may be charged for such
9 specialized service. Such fee may include a reasonable amount representing a portion of the
10 amortization of the cost of computer equipment, including software, necessarily added in order
11 to provide such specialized service. This section does not require a governmental entity to
12 acquire computer capability to generate public records in a new or different form if that new
13 form would require additional computer equipment or software not already possessed by the
14 governmental entity.

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

17 The provisions of this Act shall be liberally construed whenever any state, county, or
18 political subdivision fiscal records, audit, warrant, voucher, invoice, purchase order, requisition,
19 payroll, check, receipt, or other record of receipt, cash, or expenditure involving public funds
20 is involved in order that the citizens of this state shall have the full right to know of and have
21 full access to information on the public finances of the government and the public bodies and
22 entities created to serve them. Use of funds as needed for criminal investigatory/confidential
23 informant purposes is not subject to this section, but any budgetary information summarizing
24 total sums used for such purposes is public. Records which, if disclosed, would impair present

1 or pending contract awards or collective bargaining negotiations are exempt from disclosure.

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

4 Each public body shall maintain a file of all letters of denial of requests for records. This file
5 shall be made available to any person on request.

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

8 The following records are not subject to sections 1, 2, and 4 of this Act:

- 9 (1) Personal information in records regarding any student, prospective student, or former
10 student of any educational institution if such records are maintained by and in the
11 possession of a public entity, other than routine directory information specified and
12 made public consistent with 20 U.S.C. 1232g, as such section existed on January 1,
13 2009;
- 14 (2) Medical records, including all records of drug or alcohol testing, treatment, or
15 counseling, other than records of births and deaths. This law in no way abrogates or
16 changes existing state and federal law pertaining to birth and death records;
- 17 (3) Trade secrets, the specific details of bona fide research, applied research, or scholarly
18 or creative artistic projects being conducted at a school, postsecondary institution or
19 laboratory funded in whole or in part by the state, and other proprietary or
20 commercial information which if released would infringe intellectual property rights,
21 give advantage to business competitors, or serve no material public purpose;
- 22 (4) Records which consist of attorney work product or which are subject to any privilege
23 recognized in chapter 19-13;
- 24 (5) Records developed or received by law enforcement agencies and other public bodies

1 charged with duties of investigation or examination of persons, institutions, or
2 businesses, if the records constitute a part of the examination, investigation,
3 intelligence information, citizen complaints or inquiries, informant identification, or
4 strategic or tactical information used in law enforcement training. However, this
5 subdivision does not apply to records so developed or received relating to the
6 presence of and amount or concentration of alcohol or drugs in any body fluid of any
7 person, and this subdivision does not apply to a 911 recording or a transcript of a 911
8 recording, if the agency or a court determines that the public interest in disclosure
9 outweighs the interest in nondisclosure. This law in no way abrogates or changes
10 §§ 23-5-7 and 23-5-11 or testimonial privileges applying to the use of information
11 from confidential informants;

12 (6) Appraisals or appraisal information and negotiation records concerning the purchase
13 or sale, by a public body, of any interest in real or personal property;

14 (7) Personnel information other than salaries and routine directory information;

15 (8) Information solely pertaining to protection of the security of public or private
16 property and persons on or within public or private property, such as specific, unique
17 vulnerability assessments or specific, unique response plans, either of which is
18 intended to prevent or mitigate criminal acts, emergency management or response,
19 or public safety, the public disclosure of which would create a substantial likelihood
20 of endangering public safety or property; computer or communications network
21 schema, passwords, and user identification names; guard schedules; lock
22 combinations; or any blueprints, building plans, or infrastructure records regarding
23 any building or facility that expose or create vulnerability through disclosure of the
24 location, configuration, or security of critical systems;

- 1 (9) The security standards, procedures, policies, plans, specifications, diagrams, access
2 lists, and other security-related records of the Gaming Commission and those persons
3 or entities with which the commission has entered into contractual relationships.
4 Nothing in this subdivision allows the commission to withhold from the public any
5 information relating to amounts paid persons or entities with which the commission
6 has entered into contractual relationships, amounts of prizes paid, the name of the
7 prize winner, and the municipality, or county where the prize winner resides;
- 8 (10) Personally identified private citizen account payment information, credit information
9 on others supplied in confidence, and customer lists;
- 10 (11) Records or portions of records kept by a publicly funded library which, when
11 examined with or without other records, reveal the identity of any library patron
12 using the library's materials or services;
- 13 (12) Correspondence, memoranda, calendars or logs of appointments, working papers, and
14 records of telephone calls of public officials or employees;
- 15 (13) Records or portions of records kept by public bodies which would reveal the location,
16 character, or ownership of any known archaeological, historical, or paleontological
17 site in South Dakota if necessary to protect the site from a reasonably held fear of
18 theft, vandalism, or trespass. This subdivision does not apply to the release of
19 information for the purpose of scholarly research, examination by other public bodies
20 for the protection of the resource or by recognized tribes, or the federal Native
21 American Graves Protection and Repatriation Act;
- 22 (14) Records or portions of records kept by public bodies which maintain collections of
23 archeological, historical, or paleontological significance which nongovernmental
24 donors have requested to remain closed or which reveal the names and addresses of

1 donors of such articles of archaeological, historical, or paleontological significance
2 unless the donor approves disclosure, except as the records or portions thereof may
3 be needed to carry out the purposes of the federal Native American Graves Protection
4 and Repatriation Act and the Archeological Resources Protection Act;

5 (15) Employment applications and related materials, except for applications and related
6 materials submitted by individuals hired into executive or policymaking positions of
7 any public body;

8 (16) Social security numbers; credit card, charge card, or debit card numbers and
9 expiration dates; passport numbers, driver license numbers; or other personally
10 identifying numbers or codes; and financial account numbers supplied to state and
11 local governments by citizens or held by state and local governments regarding
12 employees or contractors;

13 (17) Any emergency or disaster response plans or protocols, safety or security audits or
14 reviews, or lists of emergency or disaster response personnel or material; any location
15 or listing of weapons or ammunition; nuclear, chemical, or biological agents; or other
16 military or law enforcement equipment or personnel;

17 (18) Any test questions, scoring keys, results, or other examination data for any
18 examination to obtain licensure, employment, promotion or reclassification, or
19 academic credit;

20 (19) Personal correspondence, memoranda, notes, calendars or appointment logs, or other
21 personal records or documents of any public official or employee;

22 (20) Any document declared closed or confidential by court order, contract, or stipulation
23 of the parties to any civil or criminal action or proceeding;

24 (21) Any list of names or other personally identifying data of occupants of camping or

1 lodging facilities from the Department of Game, Fish and Parks;

2 (22) Records which, if disclosed, would constitute an unreasonable release of personal
3 information;

4 (23) Records which, if released, could endanger the life or safety of any person;

5 (24) Internal agency record or information received by agencies that are not required to
6 be filed with such agencies, if the records do not constitute final statistical or factual
7 tabulations, final instructions to staff that affect the public, or final agency policy or
8 determinations, or any completed state or federal audit and if the information is not
9 otherwise public under other state law, including chapter 15-15A and § 1-26-21;

10 (25) Records of individual children regarding commitment to the Department of
11 Corrections pursuant to chapters 26-8B and 26-8C;

12 (26) Records regarding inmate disciplinary matters pursuant to § 1-15-20; and

13 (27) Any other record made closed or confidential by state or federal statute or rule or as
14 necessary to participate in federal programs and benefits.

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

17 The following financial, commercial, and proprietary information is specifically exempt
18 from disclosure pursuant to this Act:

19 (1) Valuable formulae, designs, drawings, computer source code or object code, and
20 research data invented, discovered, authored, developed, or obtained by any agency
21 if disclosure would produce private gain or public loss;

22 (2) Financial information supplied by or on behalf of a person, firm, or corporation for
23 the purpose of qualifying to submit a bid or proposal;

24 (3) Financial and commercial information and records supplied by private persons

1 pertaining to export services;

2 (4) Financial and commercial information and records supplied by businesses or
3 individuals as part of an application for loans or program services or application for
4 economic development loans or program services;

5 (5) Financial and commercial information, including related legal assistance and advice,
6 supplied to or developed by the state investment council or the division of investment
7 if the information relates to investment strategies or research, potential investments,
8 or existing investments of public funds;

9 (6) Proprietary data, trade secrets, or other information that relates to:

10 (a) A vendor's unique methods of conducting business;

11 (b) Data unique to the product or services of the vendor; or

12 (c) Determining prices or rates to be charged for services, submitted by any
13 vendor to any public body;

14 (7) Financial, commercial, and proprietary information supplied in conjunction with
15 applications or proposals for funded scientific research, for participation in joint
16 scientific research projects, for projects to commercialize scientific research results,
17 or for use in conjunction with commercial or government testing;

18 (8) Any production records, mineral assessments, and trade secrets submitted by a permit
19 holder, mine operator, or landowner to any public body.

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

22 Drafts, notes, recommendations, and memoranda in which opinions are expressed or policies
23 formulated or recommended are exempt from disclosure pursuant to this Act.

24 Section 9. That chapter 1-27 be amended by adding thereto a NEW SECTION to read as

1 follows:

2 Any record that is relevant to a controversy to which a public body is a party but which
3 record would not be available to another party under the rules of pretrial discovery for causes
4 pending in circuit court are exempt from disclosure pursuant to this Act.

5 Section 10. That § 1-27-4 be amended to read as follows:

6 ~~1-27-4. If any officer of the State of South Dakota, any political subdivision, municipal~~
7 ~~corporation, or public corporation is required or authorized by law to record, copy, file, recopy,~~
8 ~~or replace any document, plat, paper, voucher, receipt, or book on file or of record in the~~
9 ~~officer's office, the officer may do so by any photostatic, microphotographic, microfilm,~~
10 ~~mechanical, or electronic process which produces a clear, accurate, and permanent copy or~~
11 ~~reproduction of the original in accordance with the standards not less than those approved for~~
12 ~~permanent records by the National Bureau of Standards or the American National Standards~~
13 ~~Association. However, no school district is required to maintain its permanent school records~~
14 ~~on microfilm if the district maintains its permanent school records in an electronic format that~~
15 ~~can be used to produce clear, accurate reproductions of the originals. Any record made open to~~
16 ~~the public pursuant to this chapter shall be maintained in its original format or in any searchable~~
17 ~~and reproducible electronic or other format. This chapter does not mandate that any record or~~
18 ~~document be kept in a particular format nor does it require that a record be provided to the~~
19 ~~public in any format or media other than that in which it is stored.~~

20 Section 11. That § 1-27-6 be repealed.

21 ~~—1-27-6. Whenever any record or document is copied or reproduced in a method described~~
22 ~~in § 1-27-4, the officer shall retain a copy or reproduction in his office.~~

23 Section 12. That § 1-27-7 be repealed.

24 ~~—1-27-7. If the original records or documents are disposed of or destroyed, the officer shall,~~

1 ~~unless viewing equipment is otherwise available within the corporate limits of the municipality~~
2 ~~wherein the records or documents are kept, provide suitable equipment for displaying such~~
3 ~~record or document in whole or in part by projection to no less than its original size, or for~~
4 ~~preparing for persons entitled thereto copies of the record or document, but which shall not be~~
5 ~~required to be in its original size.~~

6 Section 13. That § 1-27-8 be repealed.

7 ~~—1-27-8. A photographic, microphotographic, or microfilm copy of any such record, or a~~
8 ~~certified copy thereof, shall be admissible as evidence in any court or proceeding and it shall~~
9 ~~have the same force and effect as though the original record has been produced and proved. It~~
10 ~~shall be the duty of the custodian of such records to prepare enlarged typed or photographic~~
11 ~~copies of the records whenever their production is required by law.~~

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

14 No elected or appointed official or employee of the state or any political subdivision may
15 be compelled to provide documents, records, or communications used for the purpose of the
16 decisional or deliberative process relating to any decision arising from that person's official
17 duties.

18 Section 15. That chapter 1-27 be amended by adding thereto a NEW SECTION to read as
19 follows:

20 In response to any request pursuant to § 1-27-36 or 1-27-37, a public record officer may
21 redact any portion of a document which contains information precluded from public disclosure
22 by § 1-27-3 or which would unreasonably invade personal privacy, threaten public safety and
23 security, disclose proprietary information, or disrupt normal government operations. A redaction
24 under this section is considered a partial denial for the application of § 1-27-37.

1 Section 16. That chapter 1-27 be amended by adding thereto a NEW SECTION to read as
2 follows:

3 Any subscription or license holder list maintained by the Department of Game, Fish and
4 Parks may be made available to the public for a reasonable fee. State agencies are exempt from
5 payment of this fee for approved state use. The Game, Fish and Parks Commission may
6 promulgate rules pursuant to chapter 1-26 to establish criteria for the sale and to establish the
7 fee for the sale of such lists.

8 Any automobile liability insurer licensed in the state, or its certified authorized agent, may
9 have access to the name and address of any person licensed or permitted to drive a motor vehicle
10 solely for the purpose of verifying insurance applicant and policyholder information. An insurer
11 requesting any such name and address shall pay a reasonable fee to cover the costs of producing
12 such name and address. The Department of Public Safety shall set such fee by rules promulgated
13 pursuant to chapter 1-26.

14 Any list released or distributed under this section may not be resold or redistributed.
15 Violation of this section by the resale or redistribution of any such list is a Class 2 misdemeanor.

16 Section 17. That chapter 1-27 be amended by adding thereto a NEW SECTION to read as
17 follows:

18 The provisions of this chapter do not apply to records and documents of the Unified Judicial
19 System.

20 Section 18. That § 23-5-11 be amended to read as follows:

21 23-5-11. ~~The provisions of § 1-27-1 do not apply to confidential criminal justice~~
22 ~~information.~~ Confidential criminal justice information and criminal history information are
23 specifically exempt from disclosure pursuant to this Act and may be withheld by the lawful
24 custodian of the records. Information about calls for service revealing the date, time, and general

1 location and general subject matter of the call is not confidential criminal justice information
2 and may be released to the public, at the discretion of the executive of the law enforcement
3 agency involved, unless the information contains intelligence or identity information that would
4 jeopardize an ongoing investigation. The provisions of this section do not supersede more
5 specific provisions regarding public access or confidentiality elsewhere in state or federal law.

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

8 The secretary of corrections may prohibit the release of information to inmates or their
9 agents regarding correctional operations, department policies and procedures, and inmate
10 records of the requesting inmate or other inmates if the release would jeopardize the safety or
11 security of a person, the operation of a correctional facility, or the safety of the public. This
12 section does not apply to an inmate's attorney requesting information that is subject to disclosure
13 under this chapter.

14 Section 20. That § 1-15-20.1 be amended to read as follows:

15 1-15-20.1. For the purposes of § 1-15-20 and chapter 1-27, an inmate is any person, adult,
16 or juvenile, who has been sentenced or committed to or placed in a facility or program under
17 the control of the Department of Corrections pursuant to § 1-15-1.4.

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

20 This chapter does not require the redaction of any record, or any portion of a record, which
21 is recorded in the office of the register of deeds prior to July 1, 2010.

22 Section 22. That chapter 1-27 be amended by adding thereto a NEW SECTION to read as
23 follows:

24 No civil or criminal liability may attach to a public official for the mistaken denial or

1 provision of a record pursuant to this chapter if that action is taken in good faith.

2 Section 23. That chapter 10-45B be amended by adding thereto a NEW SECTION to read

3 as follows:

4 The name of any person or entity that receives a refund or credit of sales, use, or contractors

5 excise tax pursuant to this chapter and the amount of any such refund or credit is public

6 information and shall be available and open to public inspection as provided in § 1-27-1.

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

923Q0505

SENATE ENGROSSED NO. **SB 148** - 2/25/2009

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

Introduced by: Senator Adelstein and Representatives Nygaard, Curd, Kirkeby, and Lange

1 FOR AN ACT ENTITLED, An Act to permit the cancellation of insurance when a person is no
2 longer a participant in the 24/7 sobriety program.

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

4 Section 1. That § 58-11-46 be amended to read as follows:

5 58-11-46. A notice of cancellation of a policy shall be effective only if it is based on one or
6 more of the following reasons:

7 (1) Nonpayment of premium; or

8 (2) The driver's license or motor vehicle registration of the named insured or of any other
9 operator who either resides in the same household or customarily operates an
10 automobile insured under the policy has been under suspension or revocation during
11 the policy period or, if the policy is a renewal, during its policy period or the one
12 hundred eighty days immediately preceding its effective date;

13 (3) For any person who is insured based upon participation in the 24/7 sobriety program
14 and who is no longer a participant in the 24/7 sobriety program due to noncompliance
15 with the 24/7 sobriety program.



1 This section shall not apply to nonrenewal.

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

175Q0312

HOUSE HEALTH AND HUMAN SERVICES ENGROSSED NO. **SB 153** - 3/5/2009

Introduced by: Senators Jerstad, Adelstein, Fryslie, and Merchant and Representatives Nygaard, Engels, Gibson, Jensen, Juhnke, Killer, Kirkeby, Krebs, Lange, and Vanderlinde

1 FOR AN ACT ENTITLED, An Act to provide procedures by which adopted persons may obtain
2 their original birth certificates and the contact preference of birth parents.

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

4 Section 1. That § 34-25-16.4 be amended to read as follows:

5 34-25-16.4. When a new certificate of birth is established pursuant to §§ 34-25-15 to 34-25-
6 16.2, inclusive, the original certificate of birth together with the adoption information or other
7 evidence upon which a new certificate is made shall be sealed, filed, and may be opened only
8 upon order of a court of competent jurisdiction, or by the secretary of health for purposes of
9 properly administering the vital registration system or for purposes of complying with section
10 2 of this Act.

11 Section 2. That chapter 34-25 be amended by adding thereto a NEW SECTION to read as
12 follows:

13 Any adopted person who is at least eighteen years of age and who was born in this state,
14 such adopted person's attorney, or if such adopted person is deceased, any descendant of such



1 adopted person may obtain a copy of that person's original certificate of birth from the
2 Department of Health by filing a written application with, and providing appropriate proof of
3 identification to, the department. Upon receipt of the written application and proof of
4 identification, the department shall issue to the applicant a noncertified copy of the unaltered
5 original certificate of birth. The department may charge the same fee as provided pursuant to
6 § 34-25-52. The Department of Health may promulgate rules, pursuant to chapter 1-26, for the
7 administration of this section.

8 Section 3. That chapter 34-25 be amended by adding thereto a NEW SECTION to read as
9 follows:

10 A birth parent may state a preference regarding contact by an adopted person. The
11 Department of Social Services shall maintain a registry of this contact preference information
12 and make this information available to the Department of Health for the purposes of this section.
13 The Department of Health shall, when issuing a noncertified copy of the original certificate of
14 birth pursuant to section 2 of this Act, provide to the applicant any contact preference
15 information from the registry for that applicant.

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

583Q0757

HOUSE JUDICIARY ENGROSSED NO. **SB 186** 3/6/2009

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

Introduced by: Senator Olson (Russell)

1 FOR AN ACT ENTITLED, An Act to provide for the imposition of a late payment fee for
2 certain chronically delinquent child support obligations.

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

4 Section 1. That chapter 25-7 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 For the purposes of section 2 of this Act, the term, chronically delinquent, means the child
7 support is paid ten or more days after the date the child support is due in each of three or more
8 months in any twelve-month consecutive period, or the child support paid is less than ninety
9 percent of the amount due in each of three or more months in any twelve-month consecutive
10 period.

11 Section 2. That chapter 25-7 be amended by adding thereto a NEW SECTION to read as
12 follows:

13 An obligor found to be chronically delinquent in child support payments or installments as
14 required under an order for support, as defined in § 25-7A-1, is subject to a late payment fee



1 equal to ten percent of the ordered child support or fifty dollars, whichever is greater, for each
2 month in the preceding twelve months that the payment was ten or more days delinquent or the
3 payment was less than ninety percent of the ordered child support. Any obligee seeking the late
4 payment fee shall file in the office of the clerk of courts of the county in which the order was
5 filed, or in a county in which a transcript of the order is filed and docketed, a petition showing
6 the date of receipt of each month of delinquent payment, the amount received, and the amount
7 due and requesting that a late fee be ordered. Upon filing of the petition, the obligee shall serve,
8 by certified mail or as otherwise provided by law, a copy of the petition to the obligor. The
9 service of such notice shall be deemed complete when proof of the service is filed with the
10 court. The obligor has ten days from service to object to the imposition of a late fee. If a party
11 objects within ten days of service the court shall conduct a hearing as soon as practical. The
12 obligor has the burden of showing an inability to timely pay child support payments or
13 installments as required under an order of support. Based upon the evidence presented at the
14 hearing, the court may order the obligor to pay a late fee or may order any other relief as it
15 deems appropriate.