

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

400Q0301

HOUSE APPROPRIATIONS

ENGROSSED NO. **HB 1074** - 2/18/2009

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 Appropriations at the request of the Board of Regents

1 FOR AN ACT ENTITLED, An Act to increase certain expenditure authority previously granted
2 to the Board of Regents, to designate circumstances in which such authority may be used,
3 to appropriate funds therefor, and to declare an emergency.

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

5 Section 1. That subdivision (2) of section 2 of chapter 29 of the 2008 Session Laws be
6 amended to read as follows:

7 (2) The chemistry building ~~replacement~~ addition and partial renovation at the South
8 Dakota School of Mines and Technology in Rapid City, South Dakota, for an
9 estimated cost of seventeen million nine hundred fifty-seven thousand seven hundred
10 dollars of which ten million dollars shall be provided from proceeds of bonds issued
11 pursuant to subdivision (4) of section 3 of chapter 110 of the 2005 Session Laws and
12 not to exceed forty-eight thousand two hundred fifty-two gross square feet;

13 Section 2. That subdivision (3) of section 2 of chapter 29 of the 2008 Session Laws be
14 amended to read as follows:



1 (3) The paleontology building at the South Dakota School of Mines and Technology in
2 Rapid City, South Dakota, for an estimated cost of seven million sixty-three thousand
3 nine hundred sixty-three dollars and not to exceed thirty-five thousand gross square
4 feet;

5 Section 3. That section 7 of chapter 29 of the 1008 Session Laws be amended to read as
6 follows:

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

15 Section 4. That chapter 29 of the 2008 Session Laws be amended by adding thereto a NEW
16 SECTION to read as follows:

17 Section 8. Notwithstanding any other restriction in this Act to the contrary, the total project
18 cost authorized for the projects identified in subdivisions (2) and (3) of section 2 of this Act may
19 be increased by donations and grants received by the Board of Regents for the purposes of this
20 Act, and the Building Authority and the Board of Regents are hereby authorized to expend such
21 grants and donations for the construction, completion, furnishing, equipping, and maintaining
22 of, including heating, air conditioning, plumbing, water, sewer, electric facilities, architectural
23 and engineering services, asbestos abatement, removal of existing roofing and structures, and
24 such other services and improvements as may be required to erect the improvements authorized

1 in subdivisions (2) and (3) of section 2 of this Act. However, no adjustments to any cost
2 estimate may exceed one hundred twenty-five percent of the authorized expenditure authority
3 stated in subdivisions (2) and (3) of section 2 of this Act or one hundred ten percent of the gross
4 square footage authorized by subdivisions (2) and (3) of section 2 of this Act; provided that
5 increases in gross square footage estimates may be made only to accommodate design changes
6 needed to comply with building code requirements, to address unforeseeable structural, subsoil,
7 or environmental conditions, or to accommodate building program changes in the facility design
8 plan.

9 Section 5. That section 1 of chapter 99 of the 2008 Session Laws be amended to read as
10 follows:

11 Section 1. The Board of Regents may contract for the construction, completion, furnishing,
12 equipping, and maintaining of, including heating, air conditioning, plumbing, water, sewer,
13 electric facilities, architectural and engineering services, asbestos abatement, removal of existing
14 roofing and structures, and such other services and improvements as may be required to erect,
15 a student athlete development center, not to exceed thirty thousand gross square feet, on the
16 campus of South Dakota State University in Brookings, in Brookings County, at an estimated
17 cost of six million dollars.

18 Section 6. That section 2 of chapter 99 of the 2008 Session Laws be amended to read as
19 follows:

20 Section 2. ~~There is hereby appropriated~~ The Board of Regents is hereby authorized to
21 expend the sum of six million dollars (\$6,000,000), or so much thereof as may be necessary, of
22 other fund expenditure authority, payable from funds donated for the purposes of this Act, ~~to~~
23 ~~the Board of Regents~~ for the ~~construction~~ total project cost authorized by this Act.

24 Section 7. That section 1 of chapter 93 of the 2006 Session Laws be amended to read as

1 follows:

2 Section 1. The Board of Regents may contract for the construction, completion, furnishing,
3 equipping, and maintaining of, including heating air conditioning, plumbing, water, sewer,
4 electric facilities, architectural and engineering services, asbestos abatement, and such other
5 services as may be required to construct, a new dairy manufacturing plant at South Dakota State
6 University in Brookings, in Brookings County, at an estimated cost of ~~four million dollars~~ five
7 million eight hundred fifty-two thousand dollars and which may not exceed twenty-three
8 thousand nine hundred fifty-two gross square feet.

9 Section 8. That chapter 93 of the 2006 Session Laws be amended by adding thereto a NEW
10 SECTION to read as follows:

11 Notwithstanding any other restriction in this Act to the contrary, the total project cost
12 authorized for the projects identified in section 1 of this Act may be increased by donations and
13 grants received by the Board of Regents for the purposes of this Act, and the Board of Regents
14 is hereby authorized to expend such grants and donations for the construction, completion,
15 furnishing, equipping, and maintaining of, including heating, air conditioning, plumbing, water,
16 sewer, electric facilities, architectural and engineering services, asbestos abatement, removal
17 of existing roofing and structures, and such other services and improvements as may be required
18 to erect the dairy manufacturing plant. However, no adjustments to any cost estimate may
19 exceed one hundred twenty-five percent of the authorized expenditure authority stated in section
20 1 of this Act or one hundred ten percent of the gross square footage authorized by section 1 of
21 this Act; provided that increases in gross square footage estimates may be made only to
22 accommodate design changes needed to comply with building code requirements, to address
23 unforeseeable structural, subsoil, or environmental conditions, or to accommodate building
24 program changes in the facility design plan.

1 Section 9. That chapter 99 of the 2008 Session Laws be amended by adding thereto a NEW
2 SECTION to read as follows:

3 Section 4. Notwithstanding any other restriction in this Act to the contrary, the total project
4 cost may be increased based on the receipts of grants or donations received pursuant to this Act.
5 However, no adjustment to any cost estimates authorized by this Act may exceed one hundred
6 twenty-five percent of the authorized expenditure authority stated in section 2 of this Act or one
7 hundred ten percent of the gross square footage authorized by this Act; provided that increases
8 in gross square footage estimates may be made only to accommodate design changes needed to
9 comply with building code requirements, to address unforeseeable structural, subsoil, or
10 environmental conditions, or to accommodate building program changes in the facility design
11 plan.

12 Section 10. For the purposes of this Act, the term, gross square footage, means the sum of
13 all areas on all floors of a building included within the outside faces of the building's exterior
14 walls, including floor penetration areas, however insignificant, for circulation and shaft areas
15 that connect one floor to another as computed by physically measuring or scaling measurements
16 from the outside faces of exterior walls, disregarding cornices, pilaster, buttresses, etc., which
17 extend beyond the wall faces. The term includes excavated basement area; mezzanines,
18 penthouses, and attics; garages; multiple floor parking structures; enclosed porches, inner or
19 outer balconies whether walled or not, if the balconies are utilized for operational functions; and
20 corridors whether walled or not, if the corridors are within the outside face lines of the building,
21 to the extent of the roof drip line and the footprints of stairways, elevator shafts, and ducts on
22 each floor through which the corridors pass. The term does not include open areas such as
23 unenclosed parking lots, playing fields, courts, and light wells, clear span areas not exceeding
24 three feet in height, or portions of upper floors eliminated by rooms or lobbies that rise above

1 single-floor height.

2 Section 11. Whereas, this Act is necessary for the support of the state government and its
3 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in
4 full force and effect from and after its passage and approval.

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

848Q0218

HOUSE EDUCATION ENGROSSED NO. **HB 1149** 2/18/2009

Introduced by: Representatives Brunner, Bolin, Feickert, Jensen, Juhnke, Kirkeby, Moser, Novstrup (David), Olson (Betty), Rausch, Rave, Russell, and Verchio and Senators Howie, Abdallah, Bradford, Garnos, Novstrup (Al), Rhoden, and Schmidt

1 FOR AN ACT ENTITLED, An Act to allow a person or entity to offer postsecondary education
2 credit in South Dakota while seeking accreditation from a recognized accrediting agency.

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

4 Section 1. That § 13-49-27.1 be amended to read as follows:

5 13-49-27.1. No person or governmental entity may offer postsecondary education credit or
6 degree in South Dakota, or while organized under the laws of South Dakota, unless currently
7 holding accreditation from ~~a regional~~ an accrediting agency recognized by the United States
8 Department of Education pursuant to 20 U.S.C. § 1099b as amended to January 1, ~~2001~~ 2009,
9 or participating in any federal financial assistance program authorized by Title IV of the Higher
10 Education Act of 1965 as amended to January 1, ~~2001~~ 2009, or unless the person or
11 governmental entity is, for a period of no more than five years, actively seeking accreditation
12 from an accrediting agency recognized by the United States Department of Education and is
13 offering transferable courses and programs under an affiliation agreement with an institution



1 accredited by the same agency. A violation of this section is a Class 1 misdemeanor and subjects
2 the violator to a civil penalty of twenty-five thousand dollars.

3 The provisions of this section do not apply to a religious institution that offers credit or
4 degree solely for the purpose of conferring status or authority within that religion.

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

948Q0442

HOUSE APPROPRIATIONS ENGROSSED NO. **HB 1183** - 2/18/2009

Introduced by: Representatives Lust, Boomgarden, Cronin, Curd, Dreyer, Feinstein, Gosch, Jensen, Kopp, McLaughlin, Olson (Ryan), Romkema, Rounds, Sly, Thompson, Turbiville, Verchio, and Wink and Senators Haverly, Abdallah, Adelstein, Dempster, Knudson, Nelson, Rhoden, Tieszen, and Turbak Berry

1 FOR AN ACT ENTITLED, An Act to authorize the Board of Regents and the South Dakota
2 Building Authority to contract for construction of the Higher Education Center-West River
3 and to make an appropriation therefor.

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

5 Section 1. The Board of Regents may enter into an agreement to acquire a site for the Higher
6 Education Center-West River in Rapid City, Pennington County, South Dakota, through a
7 partial donation and partial sale on the terms herein provided. The real property being described
8 as follows: that part of the Northeast Quarter of the Southwest Quarter (NE1/4SW1/4) and that
9 part of the South Half of the Southwest Quarter (S1/2SW1/4) of Section 27, Township 2 North,
10 Range 8 East of the Black Hills Meridian, in the City of Rapid City, Pennington County, South
11 Dakota, lying south of Lot H7 as conveyed to the Chicago and North Western Railway
12 Company in Deed Book 145, Page 192 and as shown on the plat filed in Highway Plat Book 4,
13 Page 90, EXCEPTING therefrom Lot A of Tract B, as shown on the plat filed in Plat Book 10,



1 Page 4; EXCEPTING therefrom that portion of Lots 1, 2 and 3 in Block 1 of Heartland Retail
2 Center located in the SW1/4SW1/4 of Section 27, as shown on the plat filed in Plat Book 31,
3 Page 111; -AND- the Northwest Quarter of the Northwest Quarter (NW1/4NW1/4) of Section
4 34, Township 2 North, Range 8 East of the Black Hills Meridian, in the city of Rapid City,
5 Pennington County, South Dakota; EXCEPTING therefrom that portion of Lots 1, 2 and 3 in
6 Block 1 located in the NW1/4NW1/4 of said Section 34, and all of Lots 1 and 2 in Block 2 of
7 Heartland Retail Center and Cheyenne Boulevard, all as shown on the plat filed in Plat Book
8 31, Page 111; and EXCEPTING therefrom the East 200 feet of the NW1/4NW1/4 of said
9 Section 34 and EXCEPTING therefrom Lot H3 of the N1/2 of said Section 34, as shown on the
10 plat filed in Highway Plat Book 11, Page 162.

11 The real property has an appraised value of three million six hundred forty-five thousand
12 dollars, and it encompasses the twelve-acre tract whose donation was the subject of chapter 94
13 of the 2008 Session Laws. The Board of Regents may purchase the entire tract for two million
14 two hundred thirty-three thousand seven hundred fifty-five dollars, which sum represents the
15 value of buildable property adjoining the twelve-acre tract that will be donated. The difference
16 between the appraised value and the sale price, one million four hundred eleven thousand two
17 hundred forty-five dollars, may be recognized as a donation by the seller.

18 Section 2. There is hereby appropriated the sum of two million two hundred thirty-three
19 thousand seven hundred fifty-five dollars (\$2,233,755), or so much thereof as may be necessary,
20 of other fund expenditure authority, payable from funds donated for the purposes of this Act,
21 to the Board of Regents for the purchase of the land described in section 1 of this Act.

22 Section 3. The South Dakota Building Authority may contract for the construction,
23 completion, furnishing, equipping, and maintaining of, including heating, air conditioning,
24 plumbing, water, sewer, electric facilities, sidewalks, parking, landscaping, architectural and

1 engineering services, and such other services or actions as may be required to construct, the
2 Higher Education Center-West River in Rapid City, Pennington County, at the estimated cost
3 of thirteen million, four hundred twenty-five thousand dollars and not to exceed fifty-four
4 thousand two hundred forty-one square feet.

5 Section 4. The South Dakota Building Authority may finance up to thirteen million, four
6 hundred twenty-five thousand dollars of the construction costs through the issuance of revenue
7 bonds, in accordance with this Act and chapter 5-12.

8 Section 5. There is hereby appropriated the sum of two million five hundred seventy-five
9 thousand dollars (\$2,575,000), or so much thereof as may be necessary, of other fund
10 expenditure authority, payable from funds donated for the purposes of this Act, to the Board of
11 Regents for the construction authorized by this Act.

12 Section 6. No indebtedness, bond, or obligation incurred or created under the authority of
13 this Act may be or may become a lien, charge, or liability against the State of South Dakota, nor
14 against the property or funds of the State of South Dakota within the meaning of the
15 Constitution or statutes of the state.

16 Section 7. The Board of Regents may make and enter into a lease agreement with the South
17 Dakota Building Authority and make rental payments under the terms thereof, pursuant to
18 chapter 5-12, from the higher education facilities fund for the purposes of this Act.

19 Section 8. The design and construction of the Higher Education Center-West River shall be
20 under the general supervision of the Bureau of Administration as provided in chapter 5-14. The
21 executive director of the Board of Regents and the executive secretary of the South Dakota
22 Building Authority, shall approve vouchers and the state auditor shall draw warrants to pay
23 expenditures authorized by this Act.

24 Section 9. All courses offered at the Higher Education Center-West River shall be at self-

1 support tuition rates established by the Board of Regents, with the exception of nursing courses
2 through the University of South Dakota and South Dakota State University, which can be
3 offered at state-support rates if authorized by the board.

4 Section 10. Notwithstanding any other restriction in this Act to the contrary, the total project
5 cost authorized for the project identified in sections 4 and 5 of this Act may be increased by
6 donations and grants received by the Board of Regents for the purposes of this Act, and the
7 Building Authority and the Board of Regents are hereby authorized to expend such grants and
8 donations for the construction, completion, furnishing, equipping, and maintaining of, including
9 heating, air conditioning, plumbing, water, sewer, electric facilities, architectural and
10 engineering services, asbestos abatement, removal of existing roofing and structures, and such
11 other services and improvements as may be required to erect. However, no adjustments to any
12 cost estimate may exceed one hundred twenty-five percent of the authorized expenditure
13 authority stated in sections 4 and 5 of this Act or one hundred ten percent of the gross square
14 footage authorized by sections 4 and 5 of this Act; provided that increases in gross square
15 footage estimates may be made only to accommodate design changes needed to comply with
16 building code requirements, to address unforeseeable structural, subsoil, or environmental
17 conditions, or to accommodate building program changes in the facility design plan.

18 Section 11. For the purposes of this Act, the term, gross square footage, means the sum of
19 all areas on all floors of a building included within the outside faces of the building's exterior
20 walls, including floor penetration areas, however insignificant, for circulation and shaft areas
21 that connect one floor to another as computed by physically measuring or scaling measurements
22 from the outside faces of exterior walls, disregarding cornices, pilaster, buttresses, etc., which
23 extend beyond the wall faces. The term includes excavated basement area; mezzanines,
24 penthouses, and attics; garages; multiple floor parking structures; enclosed porches, inner or

1 outer balconies whether walled or not, if the balconies are utilized for operational functions; and
2 corridors whether walled or not, if the corridors are within the outside face lines of the building,
3 to the extent of the roof drip line and the footprints of stairways, elevator shafts, and ducts on
4 each floor through which the corridors pass. The term does not include open areas such as
5 unenclosed parking lots, playing fields, courts, and light wells, clear span areas not exceeding
6 three feet in height, or portions of upper floors eliminated by rooms or lobbies that rise above
7 single-floor height.

8 Section 12. The expenditures authorized by this Act shall be solely for the purposes of
9 providing a site for the operation of instructional, research and service programs delivered
10 through institutions established by the Legislature and governed by the Board of Regents. The
11 Board of Regents may only use the property for the primary purpose of education or research.
12 It is the intent of the Board of Regents and the Eighty-fourth Legislature that the Board of
13 Regents may not without express legislative authorization:

- 14 (1) Organize the programs delivered at this site into a separate degree-granting
15 institution;
- 16 (2) Erect student residence facilities on the site;
- 17 (3) Construct facilities on the site for use as intercollegiate athletic practice or
18 competition;
- 19 (4) Establish intercollegiate athletic teams at the site;
- 20 (5) Sell any portion of the property acquired pursuant to this Act unless the property is
21 appraised and advertised and offered for sale at public auction. No portion of the
22 property may be sold except at public sale and for an amount less than the appraised
23 value;
- 24 (6) Offer courses taught on the property at any rate other than the self-support tuition

1 rate;

2 (7) Lease for nonagricultural purposes more than ten percent of the surface area of the
3 property to third parties;

4 (8) Lease to third parties more than ten percent of the useable space within any building
5 constructed with state funds appropriated by the Legislature; or

6 (9) Permit any free-standing commercial facility to be constructed on the property or any
7 commercial facility to be located within any building constructed with state funds
8 unless the commercial facility is reasonably needed to meet the convenience and
9 needs of the students and instructors using the building.

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

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

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

776Q0767

HOUSE EDUCATION ENGROSSED NO. **HB 1297** - 2/18/2009

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

Introduced by: Representative Rave

1 FOR AN ACT ENTITLED, An Act to restrict the use of minor adjustments to school district
2 boundaries and to revise the application process for minor boundary changes.

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

4 Section 1. That § 13-6-85 be amended to read as follows:

5 13-6-85. ~~A boundary change, affecting not more than two percent of the assessed valuation~~
6 ~~and not more than two percent of the tax-exempt acreage or other tax-exempt property to be~~
7 ~~determined at the discretion of the school district from which the area is to be taken, A minor~~
8 ~~change to a school district boundary may only be initiated within two years after the boundaries~~
9 ~~of the affected school districts were changed as the result of school district reorganization or as~~
10 ~~the result of a boundary change made pursuant to § 13-6-84.2 or other boundary change made~~
11 ~~pursuant to this title. The aggregate value of the lands taken from a school district through minor~~
12 ~~boundary changes during the two-year period may not exceed two percent of the assessed~~
13 ~~valuation of the school district, and the aggregate acreage of all tax exempt property taken from~~
14 ~~the school district during the two-year period may not exceed two percent of the tax exempt~~



1 acreage in the school district.

2 A minor boundary change may be made upon an application for a minor boundary change
3 to the school board of the school district from which the area is to be taken ~~and to the school~~
4 ~~board of the school district to which the area is to be annexed~~, in the form of a petition signed
5 by all of the owners of land, excluding land owned by the state or any other political subdivision
6 in the area to be transferred by the minor boundary change. If the school board of the school
7 district from which the area is to be taken approves the petition, the petitioners shall forward it
8 to the school board of the school district to which the area is to be annexed. If that school board
9 approves, the minor boundary change is made. Copies of the petitions shall also be delivered
10 by the petitioners to the board of county commissioners having jurisdiction over the school
11 districts affected. Any petitioner who is aggrieved by a decision of the school board under this
12 section may appeal that decision.

13 An appeal from the decision of the school board under this section may be made to the
14 circuit court in the time and manner specified by § 13-46-1 or to the secretary of the Department
15 of Education or the secretary's representative within thirty days from the date of the decision of
16 the school board by filing a notice with the secretary of the school board and mailing a copy of
17 the notice to the secretary of the Department of Education. An appeal to the secretary of the
18 Department of Education may be heard by the secretary or the secretary's representative. The
19 secretary of the Department of Education shall thereafter set a time and place for the hearing and
20 give at least ten days' written notice of the hearing to the parties involved in the appeal,
21 including all affected school districts. An appeal to the secretary is not a contested case subject
22 to chapter 1-26. An appeal from the decision of the secretary may be made pursuant to § 13-6-
23 89. On appeal from a decision of the secretary, the appeal shall be heard and determined in the
24 same manner as a direct appeal from the school board decision pursuant to § 13-6-89 and

1 chapter 13-46 without any presumption of the correctness of the decision of the secretary nor
2 may the provisions of § 1-26-36 be applied to the decision of the secretary. Nothing in this
3 section affects the right of an aggrieved party to appeal from the decision of the school board
4 to the circuit court.

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

400Q0402

HOUSE STATE AFFAIRS ENGROSSED NO. **HB 1301** - 2/18/2009

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

1 FOR AN ACT ENTITLED, An Act to create the South Dakota Ellsworth Development
2 Authority.

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

4 Section 1. There is created the South Dakota Ellsworth Development Authority, a body
5 corporate and politic, with such duties and powers as are set forth in this Act to carry out the
6 provisions of this Act. The authority is hereby constituted an independent public instrumentality
7 exercising essential public functions.

8 Section 2. The authority shall consist of seven members appointed by the Governor with the
9 advice and consent of the Senate. The terms for the initial appointments shall be as follows:
10 three members shall serve three years, two members shall serve two years, and two members
11 shall serve one year. Not all of the members may be of the same political party. One of the
12 members shall be designated by the Governor as chair. The members shall elect from among
13 their number such other officers as they may determine. The Governor may remove any member
14 of the board for cause.

15 Section 3. The authority is attached to the Department of Tourism and State Development



1 for reporting purposes. The authority shall submit such records, information, and reports in the
2 form and at such times as required by the secretary of the Department of Tourism and State
3 Development. However, the authority shall report to the Governor at least annually.

4 Section 4. All appointments to the authority after the initial appointments shall be made for
5 a four-year term. Each member's term of office shall expire on the applicable third Monday in
6 January, but the member shall continue to hold office until a successor is appointed and
7 qualified. Any vacancy in the authority shall be filled by appointment for only the balance of
8 the unexpired term. A majority of the members of the authority constitutes a quorum.

9 Section 5. No member of such authority may receive any compensation for services rendered
10 under this Act. However, members shall be reimbursed for necessary expenses incurred in
11 connection with duties and powers prescribed by this Act.

12 Section 6. The authority may employ agents and employees necessary to carry out the duties
13 and purposes of the authority.

14 Section 7. For the purpose of protecting and promoting the economic impact of Ellsworth
15 Air Force Base and associated industry, and to promote the health and safety of those living or
16 working near the base, the authority may exercise the following powers:

- 17 (1) Have perpetual succession as a body politic and corporate exercising essential public
18 functions;
- 19 (2) Sue and be sued in its own name;
- 20 (3) Have an official seal and alter the seal at will;
- 21 (4) Maintain an office at such places within the state as the authority may designate;
- 22 (5) Make and execute contracts and all other instruments necessary or convenient for the
23 performance of its duties and the exercise of its powers and functions under this Act;
- 24 (6) Borrow money and accept gifts;

- 1 (7) Apply for and use gifts, grants, or loans of money or other property from the United
2 States, the state, a unit of local government, or any person for any authority purposes
3 and enter into agreements required in connection therewith;
- 4 (8) Hold, use, and dispose of such moneys or property for any authority purposes in
5 accordance with the terms of the gift, grant, loan, or agreement;
- 6 (9) Employ fiscal consultants, engineers, attorneys, management service providers, and
7 such other consultants and employees as may be required and contract with agencies
8 of the state to provide staff and support services;
- 9 (10) Procure insurance against any loss in connection with its property and other assets,
10 including loans, bonds, and notes in such amounts and from such insurers as it may
11 deem advisable;
- 12 (11) Hold, control, and acquire by donation or purchase any private or public easements,
13 dedications to public use, platted reservations for private or public purposes, or any
14 reservations for those purposes authorized by this Act and make use of such
15 easements, dedications, or reservations for any of the purposes authorized by this
16 Act;
- 17 (12) Lease as lessor or lessee to or from any person, firm, limited liability company,
18 corporation, association or body, public or private, any projects of the type that the
19 authority may undertake and facilities or property of any nature for the use of the
20 authority to carry out any of the purposes authorized by this Act;
- 21 (13) Borrow money and issue bonds, certificates, warrants, notes, or other evidence of
22 indebtedness as provided by this Act;
- 23 (14) Procure insurance, letters of credit, guarantees, or other credit enhancement
24 arrangements from any public or private entities, including any department, agency,

1 or instrumentality of the United States or the state, for payment of all or any portion
2 of any bonds issued by the authority, including the power to pay premiums, fees, or
3 other charges on any such insurance, letters of credit, guarantees, or credit
4 arrangements;

5 (15) Receive and accept from any source financial aid or contributions of moneys,
6 property, labor, or other things of value to be held, used, and applied to carry out the
7 purposes of this Act subject to the conditions upon which the grants or contributions
8 are made, including gifts or grants from any department, agency, or instrumentality
9 of the United States for any purpose consistent with the provisions of this Act;

10 (16) To the extent permitted under its contract with the holders of bonds of the authority,
11 consent to any modification with respect to the rate of interest, time, and payment of
12 any installment of principal or interest, or any other term of any contract, loan, loan
13 note, loan note commitment, contract, lease, or agreement of any kind to which the
14 authority is a party;

15 (17) Make loans and grants to, and enter into financing agreements with, any
16 governmental agency or any person for the costs incurred in connection with the
17 development, construction, acquisition, improvement, maintenance, operation, or
18 decommissioning of any facilities, or for the maintenance of the physical or structural
19 integrity of real or personal property incorporated or which may be incorporated into
20 such facilities, in accordance with a written agreement between the authority and
21 such governmental agency or person. However, no such loan or grant may exceed the
22 total cost of such facilities as determined by the governmental agency or person and
23 approved by the authority;

24 (18) Cooperate with and exchange services, personnel, and information with any

- 1 governmental agency or political subdivision;
- 2 (19) Enter into agreements for management on behalf of the authority of any of its
3 properties upon such terms and conditions as may be mutually agreeable;
- 4 (20) Sell, exchange, lease, donate, and convey any of its properties whenever the authority
5 finds such action to be in furtherance of the purposes for which it was organized;
- 6 (21) Purchase from a willing seller, construct, develop, maintain, hold, lease, license,
7 operate, dispose of, or decommission real and personal property projects, facilities,
8 or any undertaking necessary for establishing compatible land use, as provided for
9 in subdivision 50-10-32(2), around Ellsworth Air Force Base, or generally suitable
10 for protecting or promoting the economic impact on the state of Ellsworth Air Force
11 Base and related industries;
- 12 (22) Indemnify any person or governmental agency for such reasonable risks as the
13 authority deems advisable if the indemnification is a condition of a grant, gift, or
14 donation to the authority. However, any such obligation to indemnify may only be
15 paid from insurance or from revenues of the authority, and such obligation does not
16 constitute a debt or obligation of the State of South Dakota;
- 17 (23) Acquire by eminent domain, in accordance with chapter 21-35, any private property
18 that falls within the boundaries of Ellsworth Air Force Base, or property described
19 in the 1994 United States Department of Defense approved Ellsworth Air Force Base
20 Air Installation Compatible Use Zone Study as a clear zone or an accident potential
21 zone one or two, or property located within the noise contours identified by the study,
22 but only as necessary for the authority's purposes to establish a compatible land use
23 as provided for in the study;
- 24 (24) Cooperate with, or contract with, other governmental agencies or political

1 subdivisions as may be necessary, convenient, incidental, or proper in connection
2 with any of the powers, duties, or purposes authorized by this Act; and

3 (25) Construct, purchase, license, lease, or operate a bulk wastewater treatment facility
4 and pipelines necessary to contract for bulk treatment of wastewater generated by
5 Ellsworth Air Force Base, the city of Box Elder, or other authorized sewer utilities
6 generating wastewater in the Box Elder Creek watershed. However, the authority
7 may not provide wastewater treatment service to any property located within any
8 municipality's subdivision jurisdiction as defined in §§ 11-6-26 and 9-4-14 without
9 first obtaining the municipality's consent.

10 Section 8. The authority may invest in the following:

11 (1) Bonds, notes, certificates of indebtedness, treasury bills, or other securities
12 constituting direct obligations of, or obligations the principal of and interest on which
13 are fully guaranteed or insured by, the United States of America;

14 (2) Obligations issued by, or obligations, the principal of and interest on which, are fully
15 guaranteed or insured by, any agency or instrumentality of the United States of
16 America;

17 (3) Certificates of deposit or time deposits constituting direct obligations of any bank
18 which is a qualified public depository or any savings and loan association which is
19 a savings and loan depository under the Public Deposit Insurance Act pursuant to
20 chapter 4-6A, unless sufficient volume of such certificates is not available at
21 competitive interest rates. In that event, the authority may purchase non-collateralized
22 direct obligations of any bank or savings institution or holding company if such
23 institution or holding company is rated in one of the highest two quality categories
24 by a nationally recognized rating agency;

- 1 (4) Obligations of any solvent insurance company or other corporation or business entity
2 existing under the laws of the United States or any state thereof, if the obligation of
3 the insurance company or other corporation or business entity is rated in one of the
4 two highest classifications established by a standard rating service of insurance
5 companies or a nationally recognized rating agency;
- 6 (5) Short term discount obligations of the Federal National Mortgage Association;
- 7 (6) Obligations issued by any state of the United States or any political subdivision,
8 public instrumentality, or public authority of any state of the United States, which
9 obligations are not callable before the date the principal of the obligation will be
10 required to be paid and which obligations are fully secured as to both sufficiency and
11 timely payment by, and payable solely from, securities described in subdivision (1)
12 and which obligations are rated in the highest investment classification by at least
13 two standard rating services of such obligations;
- 14 (7) An account with the State Investment Council.

15 Any securities may be purchased at the offering or market price of the security at the time
16 of the purchase. Any security so purchased shall mature or be redeemable on a date or dates
17 prior to the time when, in the judgment of the authority, the funds so invested will be required
18 for expenditure. The express judgment of the authority as to the time when any funds will be
19 required for expenditure or be redeemable is final and conclusive. Investment in any obligation
20 enumerated in this section may be made either directly or in the form of securities of, or other
21 interests in, an investment company registered under the Federal Investment Act of 1940, whose
22 shares are registered under the Federal Securities Act of 1933, and whose investments are
23 limited to these obligations.

24 Section 9. The authority may issue revenue bonds, notes, or other evidences of indebtedness

1 to pay the cost incurred in connection with developing, constructing, acquiring, improving,
2 maintaining, operating, and decommissioning projects. For the purpose of evidencing the
3 obligations of the authority to repay any money borrowed, the authority may, pursuant to
4 resolution, from time to time issue and dispose of its interest bearing revenue bonds, notes, or
5 other instruments and may also from time to time issue and dispose of such bonds, notes, or
6 other instruments to refund, at maturity, at a redemption date or in advance of either, any
7 revenue bonds, notes, or other instruments pursuant to redemption provisions or at any time
8 before maturity. Any such revenue bonds, notes, or other instruments shall be payable solely
9 from the revenues or income to be derived with respect to such projects, from the leasing or sale
10 of such projects, or from any other funds available to the authority for such purposes. The
11 revenue bonds, notes, or other instruments may bear such date or dates, may mature at such time
12 or times not exceeding forty years from their respective dates, may bear interest at such rate or
13 rates, may be in such form, may carry such registration privileges, may be executed in such
14 manner, may be payable at such place or places, may be made subject to redemption in such
15 manner and upon such terms, with or without premium as is stated on the face thereof, may be
16 authenticated in such manner, and may contain such terms and covenants as may be provided
17 by an applicable resolution.

18 Section 10. Any holder of any revenue bonds, notes, or other instruments issued by the
19 authority may bring suits at law or proceedings in equity to compel the performance and
20 observance by any person or by the authority or any of its agents or employees of any contract
21 or covenant made with the holders of such revenue bonds, notes, or other instruments, to compel
22 such person or the authority or any of its agents or employees to perform any duties required to
23 be performed for the benefit of the holders of any such revenue bonds, notes, or other
24 instruments by the provision of the resolution authorizing their issuance and to enjoin such

1 person or the authority or any of its agents or employees from taking any action in conflict with
2 any such contract or covenant.

3 Section 11. If the authority fails to pay the principal of, or interest on, any of the revenue
4 bonds or premium, if any, as the principal or interest becomes due, a civil action to compel
5 payment may be instituted in circuit court by the holder or holders of the revenue bonds on
6 which such default of payment exists or by an indenture trustee acting on behalf of such holders.
7 Delivery of a summons and a copy of the complaint to the chair of the authority constitutes
8 sufficient service to give the circuit court jurisdiction of the subject matter of such a suit and
9 jurisdiction over the authority and its officers named as defendants for the purpose of
10 compelling such payment.

11 Section 12. Notwithstanding the form and tenor of any such revenue bond, note, or other
12 instrument and in the absence of any express recital on the face of any such revenue bond, note,
13 or other instrument that it is nonnegotiable, any such revenue bond, note, and other instrument
14 is a negotiable instrument. Pending the preparation and execution of any such revenue bond,
15 note, or other instrument, a temporary revenue bond, note, or instrument may be issued as
16 provided by resolution.

17 Section 13. To secure the payment of any revenue bond, note, or other instrument, the
18 revenues to be received by the authority from a lease agreement or loan agreement shall be
19 pledged, and, for the purpose of setting forth the covenants and undertakings of the authority
20 in connection with the issuance thereof and the issuance of any additional revenue bond, note,
21 or other instrument payable from such revenue, income, or other fund to be derived from any
22 facilities, the authority may execute and deliver a trust agreement. A remedy for any breach or
23 default of the terms of any such trust agreement by the authority may be by mandamus
24 proceedings in circuit court to compel the performance and compliance with the trust agreement,

1 but the trust agreement may prescribe by whom or on whose behalf the action may be instituted.

2 Section 14. Any revenue bonds or notes shall be secured as provided in the authorizing

3 resolution which may, notwithstanding any other provision of this Act, include in addition to

4 any other security, a specific pledge or assignment of and lien on, or security interest in, any or

5 all revenues or money of the authority from whatever source that may by law be used for debt

6 service purposes and a specific pledge or assignment of, and lien on, or security interest in, any

7 funds or accounts established or provided for by resolution of the authority authorizing the

8 issuance of any such revenue bond, note, or other instrument. Any pledge made by the authority

9 of revenues or other moneys received or to be received by the authority pursuant to an

10 agreement with a governmental agency relating to a project to pay any revenue bond, note, or

11 other evidence of indebtedness of the authority is binding from the time the pledge is made.

12 Revenues and other moneys received or to be received by the authority pursuant to an agreement

13 with a governmental agency relating to a project so pledged to pay any revenue bond, note, or

14 other evidence of indebtedness of the authority shall be held outside of the state treasury and in

15 the custody of the authority or a trustee or a depository appointed by the authority. Revenues or

16 other moneys received or to be received by the authority pursuant to an agreement with a

17 governmental agency relating to a project so pledged to pay any revenue bond, note, or other

18 evidence of indebtedness of the authority and thereafter received by the authority or such trustee

19 or depository shall immediately be subject to the lien of the pledge without any physical delivery

20 thereof or further act, and the lien of any pledge is binding against all parties having claims of

21 any kind of tort, contract, or otherwise against the authority or the State of South Dakota,

22 irrespective of whether the parties have notice thereof. Neither the resolution nor any other

23 instrument by which a pledge is created need be filed or recorded except in the records of the

24 authority.

1 Section 15. The State of South Dakota pledges to and agrees with the holders of the revenue
2 bonds and notes of the authority issued pursuant to this Act that the state will not limit or
3 decrease the rights and powers vested in the authority by this Act so as to impair the terms of
4 any contract made by the authority with such holders or in any way impair the rights and
5 remedies of such holders until such revenue bonds, notes, or other instruments, together with
6 interest thereon, with interest on any unpaid installments of interest, and all costs and expenses
7 in connection with any action or proceedings by or on behalf of such holders, are fully met and
8 discharged. The authority may include these pledges and agreements of the state in any contract
9 with the holders of revenue bonds, notes, or other instruments issued pursuant to this section.

10 Section 16. Nothing in this Act may be construed to authorize the authority to create a debt
11 of the state within the meaning of the Constitution or statutes of South Dakota and all revenue
12 bonds, notes, and other instruments and obligations issued by the authority pursuant to the
13 provisions of this Act are payable and shall state that they are payable solely from the funds
14 pledged for their payment in accordance with the resolution authorizing their issuance or in any
15 trust indenture or mortgage or deed of trust executed as security therefor. The state is not liable
16 for the payment of the principal of, or interest on, any bonds, notes, instruments, or obligations
17 issued by the authority or for the performance of any pledge, mortgage, obligation, or agreement
18 of any kind whatsoever which may be undertaken by the authority. No breach of any such
19 pledge, mortgage, obligation, or agreement may impose any pecuniary liability upon the state
20 or any charge upon its general credit or against its taxing power.

21 Section 17. The state and all counties, municipalities, political subdivisions, public bodies,
22 public officers, banks, bankers, trust companies, savings banks and institutions, building and
23 loan associations, savings and loan associations, personal representatives, conservators, trustees,
24 and other fiduciaries may legally invest any debt service funds, money, or other funds belonging

1 to them or within their control in any bonds or notes issued pursuant to this Act.

2 Section 18. Any documentary material or data made or received by the authority for
3 purposes under this Act, to the extent that such material or data consists of trade secrets,
4 scientific or technical secrets, matters involving national security, or commercial or financial
5 information regarding the operation of a business, may not be considered public records, and
6 are exempt from disclosure. Any discussion or consideration of such information, any
7 discussion of personnel matters, and any discussion of strategy related to any contract
8 negotiation, may be held by the authority in executive session.

9 Section 19. The authority may acquire title to any project with respect to which it exercises
10 its authority.

11 Section 20. The provisions of § 5-2-19 do not apply to real or personal property given to the
12 authority.

13 Section 21. The authority shall designate a qualified public depository as defined in
14 § 4-6A-1 as a depository of its money. Those depositories shall be designated only within the
15 state and upon condition that bonds approved as to form and surety by the authority and at least
16 equal in amount to the maximum sum expected to be on deposit at any one time shall be first
17 given by the depositories to the authority, those bonds to be conditioned for the safekeeping and
18 prompt repayment of the deposits. If any of the funds of the authority are deposited by the
19 treasurer in any such depository, the treasurer and the sureties on the treasurer's official bond
20 are, to that extent, exempt from liability for the loss of any of the deposited funds by reason of
21 the failure, bankruptcy, or any other act or default of the depository. However, the authority may
22 accept assignments of collateral by any depository of its funds to secure the deposits to the same
23 extent and conditioned in the same manner as assignments of collateral are permitted by law to
24 secure deposits of the funds consistent with the provisions of chapter 4-6A.

1 Section 22. The income of the authority and all land, improvements, equipment, fixtures,
2 or other property interests owned by the authority are exempt from all taxation in the State of
3 South Dakota. The authority is exempt from the provisions of chapter 47-31B.

4 Section 23. Notwithstanding any other provisions of law, all funds received by the authority
5 shall be set forth in an informational budget as described in § 4-7-7.2.

6 Section 24. The authority may enter into intergovernmental agreements with any
7 governmental agency or political subdivision.

8 Section 25. The authority may share employees with governmental agencies.

9 Section 26. Nothing in this Act limits any power granted to any municipality or county
10 government nor creates any police or taxing power in the authority.