



# State of South Dakota

EIGHTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 2009

455Q0058

## HOUSE TRANSPORTATION ENGROSSED NO. **HB 1007** - 2/19/2009

Introduced by: Representatives Olson (Ryan), Krebs, Noem, Putnam, and Rausch and  
Senator Vehle at the request of the Interim Committee on South Dakota  
Highway Needs and Financing

1 FOR AN ACT ENTITLED, An Act to increase certain noncommercial and commercial motor  
2 vehicle license fees.

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

4 Section 1. That § 32-5-6 be amended to read as follows:

5 32-5-6. License fees and compensation on a noncommercial motor vehicle which is an  
6 automobile, pickup truck, or van as provided by § 32-5-5, shall be determined by the  
7 manufacturer's shipping weight, including accessories, as follows:

- 8 (1) Two thousand pounds or less, inclusive, ~~thirty~~ forty dollars;  
9 (2) From 2,001 to 4,000 pounds, inclusive, ~~forty-two~~ fifty-two dollars;  
10 (3) From 4,001 to 6,000 pounds, inclusive, ~~fifty-five~~ sixty-five dollars;  
11 (4) Over 6,000 pounds, ~~sixty-five~~ seventy-five dollars.

12 Section 2. That § 32-5-6.1 be amended to read as follows:

13 32-5-6.1. License fees for any noncommercial motor home shall be determined by the  
14 manufacturer's shipping weight, including accessories, as follows:



- 1 (1) Six thousand pounds or less, inclusive, ~~sixty~~ seventy dollars;
- 2 (2) From 6,001 to 8,000 pounds, inclusive, ~~eighty~~ ninety dollars;
- 3 (3) From 8,001 to 10,000 pounds, inclusive, ~~one hundred~~ one hundred ten dollars;
- 4 (4) For each additional 2,000 pounds or major fraction thereof, in excess of 10,000
- 5 pounds, twenty dollars.

6 For the purposes of this section, a motor home is a vehicle designed to provide temporary  
7 living quarters for recreational, camping, or travel use, built on or permanently attached to a  
8 self-propelled motor vehicle chassis or on a chassis cab or van that is an integral part of the  
9 completed vehicle.

10 Section 3. That § 32-5-6.3 be amended to read as follows:

11 32-5-6.3. License fees on a noncommercial motor vehicle which is not an automobile,  
12 pickup truck, or van licensed pursuant to § 32-5-6 shall be determined by the gross weight of  
13 the motor vehicle as defined by subdivision 32-9-1(6), and based on the following:

- 14 (1) Eight thousand pounds or less, inclusive, ~~fifty-five~~ sixty-five dollars;
- 15 (2) For each additional 2,000 pounds or major fraction thereof from 8,001 to 32,000
- 16 pounds, inclusive, three dollars;
- 17 (3) For each additional 2,000 pounds or major fraction thereof from 32,001 to 54,000
- 18 pounds, inclusive, six dollars;
- 19 (4) For each additional 2,000 pounds or major fraction thereof from 54,001 to 80,000
- 20 pounds, inclusive, eighteen dollars;
- 21 (5) For each additional 2,000 pounds or major fraction thereof in excess of 80,000
- 22 pounds, twenty-four dollars.

23 It is a Class 2 misdemeanor for a person to operate a motor vehicle licensed pursuant to this  
24 section at a gross weight in excess of the gross weight for which it has been licensed. If the

1 owner chooses to lower the registered weight, the plate shall be returned along with any  
2 validation decal and a new plate issued with the correct registered weight.

3 Section 4. That § 32-5-30 be repealed.

4 ~~32-5-30. If any noncommercial motor vehicle, according to the manufacturer's model year~~  
5 ~~designation, is five years old or more on January first of the year for which a license fee is~~  
6 ~~required, such fee shall be seventy percent of the fee ordinarily prescribed.~~

7 Section 5. That § 32-9-15 be amended to read as follows:

8 32-9-15. In consideration of the unusual use of the public highways, each person, except as  
9 otherwise provided in this chapter, desiring to operate a motor vehicle, trailer, or semitrailer,  
10 upon the public highways of this state as a motor carrier, shall annually pay the commercial  
11 motor vehicle fee as follows, to the county treasurer of the county of which ~~he~~ the person is a  
12 resident, if a carrier of property; or to the Department of Revenue and Regulation, if ~~he~~ the  
13 person is not a resident of this state:

- 14 (1) Gross weight under 4000 pounds, eighty-five dollars;
- 15 (2) Gross weight of 4001 to 6000 pounds, one hundred dollars;
- 16 (3) Gross weight of 6001 to 8000 pounds, one hundred fifteen dollars;
- 17 (4) Gross weight of 8001 to 10,000 pounds, one hundred thirty dollars;
- 18 (5) Gross weight of 10,001 to 12,000 pounds, one hundred fifty dollars;
- 19 (6) Gross weight of 12,001 to 14,000 pounds, one hundred seventy-five dollars;
- 20 (7) Gross weight of 14,001 to 16,000 pounds, two hundred dollars;
- 21 (8) Gross weight of 16,001 to 18,000 pounds, two hundred twenty-five dollars;
- 22 (9) Gross weight of 18,001 to 20,000 pounds, two hundred fifty dollars;
- 23 (10) For each additional 2000 pounds or major fraction thereof in excess of 20,000  
24 pounds, forty dollars.

1       (11) For each vehicle or combination of vehicles as defined in § 32-22-10 with a gross  
2           weight in excess of 78,000 pounds, seven dollars in addition to the fee schedule  
3           above.

4       ~~If any commercial motor vehicle, according to the manufacturer's model year designation,~~  
5       ~~is five years old or more on January first of the year for which a license fee is required, that fee~~  
6       ~~is ninety percent of the fee ordinarily prescribed.~~

# 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

400Q0323

## HOUSE TAXATION ENGROSSED NO. **HB 1072** - 2/19/2009

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

1 FOR AN ACT ENTITLED, An Act to repeal certain provisions concerning the delayed  
2 remittance of sales and use taxes for certain businesses.

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

4 Section 1. That § 10-45-99 be repealed.

5 ~~— 10-45-99. Terms used in §§ 10-45-99 to 10-45-107, inclusive, mean:~~

6 ~~— (1) — "Department," the Department of Revenue and Regulation;~~

7 ~~— (2) — "Business," a business that has purchased and is installing tangible personal property~~  
8 ~~in the form of equipment or machinery for direct use in a manufacturing, fabricating,~~  
9 ~~or processing business, which is subject to sales or use tax pursuant to chapter 10-45~~  
10 ~~or 10-46;~~

11 ~~— (3) — "Project," the purchase and installation of equipment or machinery;~~

12 ~~— (4) — "Project cost," the amount paid in money for a project;~~

13 ~~— (5) — "Secretary," the secretary of the Department of Revenue and Regulation.~~

14 Section 2. That § 10-45-100 be repealed.



1 ~~10-45-100. Any manufacturing, fabricating, or processing business may apply for and obtain~~  
2 ~~an extension for remitting the sales and use tax imposed and due under the provisions of chapter~~  
3 ~~10-45 or 10-46 for equipment or machinery that will be for direct use in a manufacturing,~~  
4 ~~fabricating, or processing business. The extension shall end after six months.~~

5 Section 3. That § 10-45-101 be repealed.

6 ~~10-45-101. The extension pertains only to equipment and machinery purchased and installed~~  
7 ~~after July 1, 2001. No extension may be made unless:~~

8 ~~(1) The project cost exceeds twenty thousand dollars; and~~

9 ~~(2) The business applying for the extension obtains a permit from the secretary as set~~  
10 ~~forth in § 10-45-103.~~

11 Section 4. That § 10-45-102 be repealed.

12 ~~10-45-102. The amount of the tax extension shall apply to one hundred percent of the~~  
13 ~~equipment and machinery costs and installation fees.~~

14 Section 5. That § 10-45-103 be repealed.

15 ~~10-45-103. Any business desiring an extension pursuant to §§ 10-45-99 to 10-45-107,~~  
16 ~~inclusive, shall apply for a permit from the secretary at least thirty days prior to commencement~~  
17 ~~of the project. The application for a permit shall be submitted on a form prescribed by the~~  
18 ~~secretary. A separate application shall be made and submitted for each project. Upon approval~~  
19 ~~of the application, the secretary shall issue a permit entitling the applicant to an extension as~~  
20 ~~provided by §§ 10-45-99 to 10-45-107, inclusive. The permit or extension is not assignable or~~  
21 ~~transferable.~~

22 Section 6. That § 10-45-104 be repealed.

23 ~~10-45-104. Any extension shall be submitted on forms prescribed by the secretary and shall~~  
24 ~~be supported by such documentation as the secretary may require. The secretary may deny any~~

1 ~~extension where the business has failed to provide information or documentation requested or~~  
2 ~~considered necessary by the secretary to determine the validity of the extension.~~

3 Section 7. That § 10-45-105 be repealed.

4 ~~— 10-45-105. If any extension has been fraudulently presented or supported as to any item in~~  
5 ~~the claim, or if the business fails to meet all the conditions §§ 10-45-99 to 10-45-107, inclusive,~~  
6 ~~then the business may be rejected in its entirety and any tax due from the business shall~~  
7 ~~constitute a debt to the state and a lien in favor of the state upon all property and rights to~~  
8 ~~property whether real or personal belonging to the business and may be recovered in an action~~  
9 ~~of debt.~~

10 Section 8. That § 10-45-106 be repealed.

11 ~~— 10-45-106. Any business aggrieved by the denial in whole or in part of a extension requested~~  
12 ~~under §§ 10-45-99 to 10-45-107, inclusive, may within thirty days after service of the notice of~~  
13 ~~a denial by the secretary, demand and is entitled to a hearing, upon notice, before the secretary.~~  
14 ~~The hearing shall be conducted pursuant to chapter 1-26.~~

15 Section 9. That § 10-45-107 be repealed.

16 ~~— 10-45-107. The secretary may promulgate rules, pursuant to chapter 1-26, concerning the~~  
17 ~~procedures for filing extensions and the requirements necessary to qualify for an extension.~~

# 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

880Q0106

## SENATE JUDICIARY ENGROSSED NO. **HB 1086** - 2/17/2009

Introduced by: The Committee on Judiciary at the request of the Chief Justice

1 FOR AN ACT ENTITLED, An Act to provide for and to require the attachment of an affidavit  
2 in certain garnishment proceedings.

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

4 Section 1. That § 21-18-31 be amended to read as follows:

5 21-18-31. The plaintiff may in all cases move the court upon the answer of the garnishee and  
6 of the defendant, if ~~he~~ the defendant shall also answer, for such judgment order as ~~he shall be~~  
7 the plaintiff is entitled to thereon, ~~but such judgment shall be no.~~ Such order is not a bar beyond  
8 the facts stated in such answers. The plaintiff shall attach an affidavit to the motion setting forth:

9 (1) Amount that is owed on judgment and daily and accrued interest;

10 (2) Additional costs claimed;

11 (3) Credit for any payments made;

12 (4) Net balance due;

13 (5) Specific request for payment of the garnished amount sufficient to satisfy judgment;

14 and

15 (6) Any surplus shall be returned to defendant.



# 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

903Q0582

SENATE COMMERCE

ENGROSSED NO. **HB 1152** - 2/17/2009

Introduced by: Representatives Deadrick, Burg, Carson, Dennert, Juhnke, Peters, Putnam, Tidemann, Wink, and Wismer and Senators Brown, Ahlers, Bartling, Haverly, Hunhoff (Jean), and Novstrup (Al)

1 FOR AN ACT ENTITLED, An Act to establish certain requirements relating to appraisals of  
2 real property by the Department of Game, Fish and Parks.

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

4 Section 1. Any appraisal of real property done by or on behalf of the Department of Game,  
5 Fish and Parks shall be done by a state certified appraiser to determine the market value of the  
6 property. Market value is the amount in cash, or on terms reasonably equivalent to cash, for  
7 which in all probability the property would have sold on the effective date of the appraisal, after  
8 a reasonable exposure time on the open competitive market, from a willing and reasonably  
9 knowledgeable seller to a willing and reasonably knowledgeable buyer, with neither acting  
10 under any compulsion to buy or sell, giving due consideration to all available economic uses of  
11 the property at the time of the appraisal.



# 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

843Q0660

## HOUSE LOCAL GOVERNMENT ENGROSSED NO. **HB 1225** - 2/19/2009

Introduced by: Representatives Krebs, Brunner, Dreyer, Gibson, Hunt, Kirkeby, Lucas, Romkema, Schlekeway, Street, Turbiville, Verchio, and Wismer and Senators Jerstad, Ahlers, Hansen (Tom), Miles, and Nelson

1 FOR AN ACT ENTITLED, An Act to require certain authorization for the installation of certain  
2 fixtures on rental property and to establish penalties related thereto.

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

4 Section 1. Any person who installs an antenna, a satellite dish, or other receiver on the  
5 residential real property of another without the consent of the landlord or the landlord's  
6 representative is guilty of a Class 2 misdemeanor. In addition, that person is subject to treble  
7 damages for any damage caused by the installation of the fixture and treble damages are deemed  
8 to be at least two hundred dollars.

9 Section 2. Any contract for the provision of a service which requires the installation of an  
10 antenna, a satellite dish, or other receiver on the residential real property of the customer shall  
11 include directly below the signature line for the customer's acceptance of the contract a  
12 statement in at least ten-point bold-faced type: "The signature of the landlord or the landlord's  
13 representative, not the tenant, is required below for installation. Failure to receive the landlord's  
14 or the landlord's representative's signature may subject the tenant and installer to criminal and



1 civil liability." Directly below that statement shall be a signature line for the landlord or the  
2 landlord's representative to approve the installation. Directly below that signature line for the  
3 landlord or the landlord's representative shall be a statement in at least ten-point bold-faced type:  
4 "Signature of landlord or the landlord's representative." Improper signature subjects signer and  
5 installer to criminal and civil penalties. Any service provider that fails to include the statements  
6 required by this section is subject to a civil penalty of one thousand dollars for each violation.

7 Section 3. Any tenant who signs the landlord's or the landlord's representative's authorization  
8 of installation without the consent of the landlord or the landlord's representative, is guilty of  
9 a Class 2 misdemeanor. In addition, the tenant is subject to treble damages for any damage  
10 caused by the installation and treble damages are deemed to be at least two hundred dollars  
11 which may be immediately removed from any damage deposit, which the landlord or the  
12 landlord's representative may require replaced as a condition of continuing the lease.

# State of South Dakota

EIGHTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 2009

753Q0685

## HOUSE TAXATION ENGROSSED NO. **HB 1229** 2/19/2009

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

Introduced by: Representatives Noem, Faehn, and Rave and Senator Rhoden

1 FOR AN ACT ENTITLED, An Act to increase the gross receipts tax imposed on visitor-related  
2 businesses and to revise certain provisions concerning the tourism promotion fund.

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

4 Section 1. That § 10-45D-2 be amended to read as follows:

5 10-45D-2. There is hereby imposed a tax of one and one-half percent on the gross receipts  
6 from any lodging establishment, campground, motor vehicle rental, visitor attraction,  
7 recreational equipment rental, recreational service, spectator event, and visitor-intensive  
8 business. The tax imposed by this section on the gross receipts of any visitor-intensive business  
9 shall apply to the gross receipts received by such business during the months of June, July,  
10 August, and September. The tax imposed by this section is in addition to any other tax imposed  
11 by chapters 10-45 and 10-46. Tangible personal property, any product transferred electronically,  
12 services, and admissions are subject to the tax imposed by this section only if subject to tax by  
13 chapters 10-45 and 10-46.

14 Section 2. That § 1-42-31 be amended to read as follows:



1        1-42-31. There is hereby established a tourism promotion fund in the Department of  
2        Tourism and State Development. The fund shall be used for the purposes and functions set forth  
3        in chapter 1-22 for the South Dakota State Arts Council and chapter 1-52 for the Department  
4        of Tourism and State Development.

# State of South Dakota

EIGHTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 2009

256Q0494

## HOUSE STATE AFFAIRS ENGROSSED NO. **HB 1240** - 2/19/2009

Introduced by: Representatives Faehn, Curd, Cutler, Feinstein, Hunhoff (Bernie), Lucas, McLaughlin, Pitts, Rave, Sly, Thompson, and Tidemann and Senators Knudson, Adelstein, Dempster, Hansen (Tom), Heidepriem, Hunhoff (Jean), Miles, and Nesselhuf

1 FOR AN ACT ENTITLED, An Act to prohibit smoking tobacco or carrying lighted tobacco  
2 products in certain places and to require certain persons to inform violators of the  
3 prohibition.

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

5 Section 1. That chapter 34-46 be amended by adding thereto a NEW SECTION to read as  
6 follows:

7 No person may smoke tobacco or carry any lighted tobacco product in any public place or  
8 place of employment. A violation of this section is a petty offense.

9 Section 2. That chapter 34-46 be amended by adding thereto a NEW SECTION to read as  
10 follows:

11 Any person that owns, manages, operates, or otherwise controls a public place or place of  
12 employment shall inform persons violating section 1 of this Act of the provisions thereof. A  
13 violation of this section is a Class 2 misdemeanor.



1 Section 3. That chapter 34-46 be amended by adding thereto a NEW SECTION to read as  
2 follows:

3 Terms used in this Act mean:

- 4 (1) "Enclosed area," any space between a floor and a ceiling that is enclosed, exclusive  
5 of doorways, on all sides by permanent or temporary walls or windows;
- 6 (2) "Place of employment," any enclosed area under the control of a public or private  
7 employer;
- 8 (3) "Public place," any enclosed area to which the public is invited or in which the public  
9 is permitted.

10 Section 4. That chapter 34-46 be amended by adding thereto a NEW SECTION to read as  
11 follows:

12 The provisions of sections 1 to 3, inclusive, of this Act do not apply to any private residence  
13 unless the private residence is used for day care.

14 Section 5. That chapter 34-46 be amended by adding thereto a NEW SECTION to read as  
15 follows:

16 The provisions of sections 1 to 3, inclusive, of this Act do not apply to any sleeping rooms  
17 in any hotel or lodging establishment licensed pursuant to subdivision 34-18-1(6) or (7),  
18 respectively, if the rooms are rented to guests. Any sleeping room in which smoking is allowed  
19 shall be posted as a smoking room.

20 Section 6. That chapter 34-46 be amended by adding thereto a NEW SECTION to read as  
21 follows:

22 The provisions of sections 1 to 3, inclusive, of this Act do not apply to any establishment  
23 licensed pursuant to subdivision 35-4-2(4), (6), (12), or (16) that was in compliance on  
24 January 1, 2009, with, and maintains compliance with, the following requirements:

- 1       (1)   Generates ten percent or more of its annual gross income from the sale of cigars. For  
2           the purposes of this section, a cigar is any individual roll of tobacco that has a  
3           wrapper or cover consisting only of tobacco, that measures a number forty ring size  
4           or larger, and that is sold without a filter;
- 5       (2)   Has a humidor on the premises; and
- 6       (3)   Is enclosed by solid walls or windows, a ceiling, and a solid door and is equipped  
7           with a ventilation system by which exhausted air is not recirculated to nonsmoking  
8           areas and smoke is not backstreamed into nonsmoking areas.

9       Any establishment meeting the requirements of this section may permit the smoking of  
10   cigars and any premium tobacco product purchased on the premises. However, no establishment  
11   may permit the smoking of any other tobacco product on the premises. The establishment shall  
12   post a notice of the prohibition.

13       Any establishment meeting the requirements of this section shall annually report to the  
14   Department of Revenue and Regulation, on a form prescribed by the department, the revenue  
15   generated from the sale of cigars as a percentage of annual gross income.

16       Section 7. That chapter 34-46 be amended by adding thereto a NEW SECTION to read as  
17   follows:

18       The provisions of sections 1 to 3, inclusive, of this Act do not apply to any retail tobacco  
19   store that meets the following requirements:

- 20       (1)   Generates sixty-five percent of its annual gross income from the sale of tobacco,  
21           tobacco products, and accessories for such products;
- 22       (2)   Is enclosed by solid walls or windows, a ceiling, and a solid door that provides egress  
23           to the outdoors; and
- 24       (3)   Does not allow the consumption of alcoholic beverages on the premises.

1 Any retail tobacco store meeting the requirements of this section shall annually report to the  
2 Department of Revenue and Regulation, on a form prescribed by the department, the revenue  
3 generated from the sale of tobacco, tobacco products, and accessories for such products as a  
4 percentage of annual gross income.

5 Section 8. The provisions of sections 1 to 3, inclusive, of this Act do not apply to any  
6 licensee pursuant to chapter 42-7B.

7 Section 9. That § 22-36-2 be repealed.

8 ~~22-36-2. No person may smoke tobacco or carry any lighted tobacco product in any public  
9 place or place of employment. This section does not apply to any sleeping room in a lodging  
10 establishment as defined in § 34-18-1, to any on-sale licensee pursuant to chapter 35-4, to any  
11 video lottery licensed establishment pursuant to chapter 42-7A, to any licensee pursuant to  
12 chapter 42-7B, or to any tobacco or packaged liquor store if the store is primarily used for the  
13 sale of tobacco or alcoholic beverages, or both, and the sale of other products is merely  
14 incidental.~~

15 ~~A violation of this section is a petty offense.~~

16 Section 10. That § 22-36-3 be repealed.

17 ~~22-36-3. For the purposes of §§ 22-36-2 to 22-36-4, inclusive, a public place is any enclosed  
18 indoor area to which the public is invited or to which the public is permitted, including any  
19 hospital or medical or dental clinic; any nursing facility; any public library, museum, theater,  
20 or concert hall; any elementary or secondary school building; any public conveyance; any jury  
21 room; any elevator; any reception area; any restaurant; any retail service establishment; any  
22 retail store; and any registered or unregistered day care program, day care center, day care  
23 cooperative, or family day care home governed by chapter 26-6 during the time in which  
24 children who are not family members of the day care provider are receiving care. A private~~

1 ~~residence is not a public place unless it is used for day care.~~

2 Section 11. That § 22-36-4 be repealed.

3 ~~—22-36-4. For the purposes of §§ 22-36-2 to 22-36-4, inclusive, a place of employment is any~~  
4 ~~enclosed indoor area under the control of a public or private employer, including work areas,~~  
5 ~~employee lounges and restrooms, conference and class rooms, employee cafeterias, and~~  
6 ~~hallways. A private residence is not a place of employment unless it is used for day care.~~

# 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.

# State of South Dakota

EIGHTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 2009

400Q0187

## HOUSE TRANSPORTATION ENGROSSED NO. **SB 17** - 2/19/2009

Introduced by: The Committee on Transportation at the request of the Department of Public Safety

1 FOR AN ACT ENTITLED, An Act to revise certain driver licensing provisions.

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

3 Section 1. That § 32-12-1 be amended to read as follows:

4 32-12-1. For purposes of this chapter, terms are defined in § 32-14-1. Terms used in this  
5 chapter mean:

6 (1) "Driver license," a document issued by a state or jurisdiction to an individual that  
7 authorizes the individual to drive a motor vehicle, including an operator's license,  
8 motorcycle operator's license, restricted minor's permit, motorcycle restricted minor's  
9 permit, instruction permit, motorcycle instruction permit, and temporary permit; ~~and~~

10 (2) "Operator's license," any document issued by a state or jurisdiction to an individual  
11 that bestows full driving privileges upon the individual; and

12 (3) "Principal residence," the location where a person currently resides even if at a  
13 temporary address.

14 Section 2. That chapter 32-12 be amended by adding thereto a NEW SECTION to read as



1 follows:

2 For the purposes of this chapter, the term, lawful status, means that a person is a citizen or  
3 national of the United States or is an alien who:

4 (1) Is lawfully admitted for permanent or temporary residence in the United States;

5 (2) Has conditional permanent resident status in the United States;

6 (3) Has an approved application for asylum in the United States or has entered into the  
7 United States in refugee status;

8 (4) Has a valid nonimmigrant status in the United States;

9 (5) Has a pending application for asylum in the United States;

10 (6) Has a pending or approved application for temporary protected status (TPS) in the  
11 United States;

12 (7) Has approved deferred action status; or

13 (8) Has a pending application for lawful permanent residence (LPR) or conditional  
14 permanent resident status.

15 Section 3. That § 32-12-3.1 be amended to read as follows:

16 32-12-3.1. Any applicant ~~under~~ as provided for in this chapter shall, on making application  
17 for an operator's license, motorcycle operator's license, restricted minor's permit, motorcycle  
18 restricted minor's permit, instruction permit, motorcycle instruction permit, or nondriver  
19 identification card, present to the examiner a one of the following documents in order to  
20 establish identity and date of birth:

21 (1) A certified copy of a United States birth certificate ~~issued in or by a city, county, or~~  
22 ~~state, a tribal identification card that provides evidence that a certified birth certificate~~  
23 ~~issued by a city, county, or state was used to obtain the tribal identification card and~~  
24 ~~is in a form and content acceptable to the Department of Public Safety, a~~

1 ~~naturalization and immigration record authorizing the applicant's presence in the~~  
2 ~~United States, or a~~ filed with the state office of vital records or equivalent agency;

3 (2) A consular report of birth abroad (United States Department of State form FS-240,  
4 DS-1350, or FS-545;

5 (3) A valid, unexpired permanent resident card (form I-551 issued by the United States  
6 Department of Homeland Security or Immigration and Naturalization Services);

7 (4) An unexpired employment authorization document issued by the United States  
8 Department of Homeland Security (form I-766 or I-688B);

9 (5) An unexpired foreign passport with a valid, unexpired United States visa affixed  
10 accompanied by the approved I-94 form documenting the applicant's most recent  
11 entrance into the United States;

12 (6) A certificate of naturalization issued by the United States Department of Homeland  
13 Security (form N-550 or N-570);

14 (7) A certificate of citizenship form N-560 or N-561 issued by the United States  
15 Department of Homeland Security;

16 (8) A valid driver license issued by this state or another state that meets the requirements  
17 of 6 C.F.R. Part 37 as amended through January 1, 2009, and is acceptable by federal  
18 agencies for official purposes;

19 (9) Any other document designated by the Department of Homeland Security by  
20 publication in the Federal Register; or

21 (10) A valid, unexpired United States passport.

22 ~~If any of the~~ For all documentation offered by the applicant ~~includes a naturalization and~~  
23 ~~immigration record or has been issued by a foreign country or jurisdiction~~ to provide evidence  
24 of identity, date of birth, social security number or nonwork authorized status, address of

1 principal residence, and lawful status, the department shall make a copy of the documentation  
2 and shall retain the copy for ~~one year from the date the copy was made or until the expiration~~  
3 ~~of any license, permit, or identification card issued in reliance upon the documentation,~~  
4 ~~whichever is later~~ ten years. All documents retained under this section are confidential. The  
5 examiner may, as part of a documented exceptions process, accept other evidence of ~~birth~~  
6 identity and date of birth of any applicant and lawful status of any United States citizen only if  
7 the examiner is satisfied that the applicant cannot, for good reason beyond the applicant's  
8 control, produce such primary documents. The examiner shall record the acceptance of any  
9 alternative document under the exceptions process. The Department of Public Safety may not  
10 require new evidence of birth at the time an application is made by a person holding an  
11 operator's license, motorcycle operator's license, restricted minor's permit, motorcycle restricted  
12 minor's permit, instruction permit, motorcycle instruction permit, or nondriver identification  
13 card, if that person's driver license or nondriver identification card meets the requirements of  
14 6 C.F.R. Part 37 as amended through January 1, 2009, is acceptable by federal agencies for  
15 official purposes, and is turned in to the department with the application. Any person who  
16 obtains a driver license or nondriver identification card pursuant to this section fraudulently or  
17 by use of a fraudulently obtained document is guilty of a ~~Class 2~~ Class 1 misdemeanor.

18 Section 4. That chapter 32-12 be amended by adding thereto a NEW SECTION to read as  
19 follows:

20 A license issued to an applicant who is not a citizen or a legal permanent resident of the  
21 United States expires coterminously with the applicant's authorized duration of stay or the  
22 otherwise applicable expiration date of the license issued under the provisions of this chapter,  
23 whichever occurs first.

24 Section 5. That chapter 32-12 be amended by adding thereto a NEW SECTION to read as

1 follows:

2 Any applicant under the provisions of this chapter shall, on making application for an  
3 operator's license, motorcycle operator's license, restricted minor's permit, motorcycle restricted  
4 minor's permit, instruction permit, motorcycle instruction permit, or nondriver identification  
5 card, present to the examiner evidence of lawful status in the United States. If the applicant has  
6 presented one of the identity documents listed under subdivision 32-12-3.1(1), (2), (3), (4), (5),  
7 (6), (7), or (10), the document is satisfactory evidence of lawful status. If the applicant presents  
8 the identity documents listed under subdivision 32-12-3.1(8) or (9), the document is not  
9 satisfactory evidence of lawful status. Such applicant shall also present a second document from  
10 subdivision 32-12-3.1(1), (2), (3), (4), (5), (6), (7), or (10) or documentation issued by the  
11 United States Department of Homeland Security or other federal agencies demonstrating lawful  
12 status as determined by the United States Citizenship and Immigration Services through the  
13 systematic alien verification for entitlements system or alternate method approved by the United  
14 States Department of Homeland Security.

15 Section 6. That chapter 32-12 be amended by adding thereto a NEW SECTION to read as  
16 follows:

17 Any applicant under the provisions of this chapter who has been assigned a social security  
18 account number shall, on making application for an operator's license, motorcycle operator's  
19 license, restricted minor's permit, motorcycle restricted minor's permit, instruction permit,  
20 motorcycle instruction permit, or nondriver identification card, present to the examiner a Social  
21 Security Administration account number card. If a Social Security Administration account  
22 number card is not available, the applicant may present any of the following documents bearing  
23 the applicant's social security number:

24 (1) A W-2 form;

- 1 (2) A SSA-1099 form;
- 2 (3) A non-SSA-1099 form; or
- 3 (4) A pay stub with the applicant's name and social security number.

4 Any applicant lawfully present in a nonimmigrant status who does not present evidence of  
5 a social security account number shall present to the examiner documentation which  
6 demonstrates a nonwork authorized status.

7 Section 7. That chapter 32-12 be amended by adding thereto a NEW SECTION to read as  
8 follows:

9 Any applicant under the provisions of this chapter shall, on making application for an  
10 operator's license, motorcycle operator's license, restricted minor's permit, motorcycle restricted  
11 minor's permit, instruction permit, motorcycle instruction permit, or nondriver identification  
12 card, present to the examiner at least two documents containing the applicant's name and  
13 address of principal residence in order to establish the applicant's address of principal residence.

14 Section 8. That § 32-12-17.2 be amended to read as follows:

15 32-12-17.2. The Department of Public Safety may issue upon application a nondriver  
16 identification card, similar in form but distinguishable in color from driver licenses, to any  
17 resident of South Dakota. Each applicant for a nondriver identification card shall, as part of the  
18 application, present to the department a certified copy of a certificate of birth or another form  
19 of evidence of date of birth and identity as allowed by § 32-12-3.1. The fee for an original or  
20 reissued nondriver identification card is the same as prescribed for an original driver license in  
21 § 32-12-16. Each nondriver identification card expires on the holder's birthday in the fifth year  
22 following the issuance of the nondriver identification card, or on the ~~same date as the expiration~~  
23 ~~date on the valid documents authorizing the applicant's presence in the United States in~~  
24 ~~accordance with § 32-12-3.1~~ date of expiration of the applicant's authorized stay in the United

1 States as determined by the systematic alien verification for entitlements system or alternate  
2 method approved by the United States Department of Homeland Security or, if there is no  
3 expiration date, for a period no longer than one year from date of issuance, whichever occurs  
4 first. Each nondriver identification card is renewable one hundred eighty days before its  
5 expiration upon application and payment of the required fee. Any nondriver identification card  
6 renewed before its expiration expires five years after the holder's ensuing birthday, or on the  
7 same date as the expiration date on the valid documents authorizing the applicant's presence in  
8 ~~the United States in accordance with § 32-12-3.1~~ date of expiration of the applicant's authorized  
9 stay in the United States as determined by the systematic alien verification for entitlements  
10 system or alternate method approved by the United States Department of Homeland Security  
11 or, if there is no expiration date, for a period no longer than one year from date of issuance,  
12 whichever occurs first. The nondriver identification card shall bear an indication if the holder  
13 has a living will pursuant to chapter 34-12D or a durable power of attorney for health care  
14 pursuant to chapter 59-7. Any nondriver identification card renewed during the thirty-day period  
15 following the date of expiration expires five years from the holder's previous birthday, or on the  
16 same date as the expiration date on the valid documents authorizing the holder's presence in the  
17 ~~United States in accordance with § 32-12-3.1~~ date of expiration of the applicant's authorized  
18 stay in the United States as determined by the systematic alien verification for entitlements  
19 system or alternate method approved by the United States Department of Homeland Security  
20 or, if there is no expiration date, for a period no longer than one year from date of issuance,  
21 whichever occurs first.

22 Section 9. That § 32-12-17.10 be amended to read as follows:

23 32-12-17.10. An operator's license, motorcycle operator's license, restricted minor's permit,  
24 motorcycle restricted minor's permit, instruction permit, and motorcycle instruction permit shall

1 bear a distinguishing number assigned to the licensee, the full legal name or any name lawfully  
2 taken, date of birth, gender, principal residence address, an indication if the licensee is a donor  
3 pursuant to chapter 34-26, an indication if the licensee has a living will pursuant to chapter 34-  
4 12D or a durable power of attorney for health care pursuant to chapter 59-7, a ~~color photo, and~~  
5 full facial digital photograph, a brief description of the licensee, ~~and~~ the licensee's signature,  
6 security features designed to deter forgery and counterfeiting, to promote an adequate level of  
7 confidence in the authenticity of the cards, and to facilitate detection of fraudulent cards, the  
8 issue date of the license, the expiration date of the license, an indication that the license is  
9 temporary or limited term if the holder has temporary lawful status in the United States, the  
10 name of this state, and a security marking approved by the United States Department of  
11 Homeland Security reflecting the level of compliance with 6 C.F.R. Part 37 as amended through  
12 January 1, 2009. The department shall indicate upon each license the general class of vehicles  
13 that the licensee may drive. ~~If a barcode, or other means by which information may be retrieved~~  
14 ~~electronically, is placed on the license, the data field may contain the information printed on the~~  
15 ~~license.~~ The back of the license shall contain a barcode. The department shall include in the  
16 barcode the name of this state, the information printed on the license, the card design revision  
17 date indicating the most recent change or modification to the visible format of the card, and an  
18 indicator if the license is temporary or limited term. No barcode, or other means by which  
19 information may be retrieved electronically, may contain the licensee's social security number.

20 Section 10. That § 32-12-42 be amended to read as follows:

21 32-12-42. Each operator's license, motorcycle operator's license, restricted minor's permit,  
22 or motorcycle restricted minor's permit expires on the licensee's birthday in the fifth year  
23 following the issuance of the license, or on the ~~same date as the expiration date on the valid~~  
24 ~~documents authorizing the applicant's presence in the United States in accordance with § 32-12-~~

1 ~~3.1~~ date of expiration of the applicant's authorized stay in the United States as determined by  
2 the systematic alien verification for entitlements system or alternate method approved by the  
3 United States Department of Homeland Security or, if there is no expiration date, for a period  
4 no longer than one year from date of issuance, whichever occurs first. Each operator's license,  
5 motorcycle operator's license, restricted minor's permit, or motorcycle restricted minor's permit  
6 is renewable one hundred eighty days before its expiration upon application and payment of the  
7 required fee. Any license renewed before its expiration expires five years after the licensee's  
8 ensuing birthday, or on the ~~same date as the expiration date on the valid documents authorizing~~  
9 ~~the applicant's presence in the United States in accordance with § 32-12-3.1~~ date of expiration  
10 of the applicant's authorized stay in the United States as determined by the systematic alien  
11 verification for entitlements system or alternate method approved by the United States  
12 Department of Homeland Security or, if there is no expiration date, for a period no longer than  
13 one year from date of issuance, whichever occurs first. However, the department shall waive the  
14 knowledge and driving tests for renewal, if the licensee applies and makes payment of the  
15 required fee within thirty days following the expiration date. If the licensee applies and makes  
16 payment of the required fee thirty-one or more days after the expiration date of the license, the  
17 licensee shall take the knowledge test as required by § 32-12-4. Any license renewed during the  
18 thirty-day period following the date of expiration expires five years from the licensee's previous  
19 birthday, or on the ~~same date as the expiration date on the valid documents authorizing the~~  
20 ~~applicant's presence in the United States in accordance with § 32-12-3.1~~ date of expiration of  
21 the applicant's authorized stay in the United States as determined by the systematic alien  
22 verification for entitlements system or alternate method approved by the United States  
23 Department of Homeland Security or, if there is no expiration date, for a period no longer than  
24 one year from date of issuance, whichever occurs first.

1 Section 11. That chapter 32-12 be amended by adding thereto a NEW SECTION to read as  
2 follows:

3 A person may hold a South Dakota driver license and a South Dakota nondriver  
4 identification card. However, the person can only have one driver license or nondriver  
5 identification card that is acceptable by federal agencies for federal purposes. If a person holds  
6 both a driver license and a nondriver identification card, one of the documents shall be clearly  
7 marked as not acceptable by federal agencies for federal purposes.

8 Section 12. That chapter 32-12A be amended by adding thereto a NEW SECTION to read  
9 as follows:

10 Any applicant under the provisions of this chapter shall, on making application for a  
11 commercial driver license, present to the examiner at least two documents containing the  
12 applicant's name and address of principal residence as defined in § 32-12-1 in order to establish  
13 the applicant's address of principal residence.

14 Section 13. That § 32-12A-20 be amended to read as follows:

15 32-12A-20. The commercial driver license shall be marked "Commercial Driver License,"  
16 shall be, to the maximum extent practicable, tamper proof, and shall include the following  
17 information:

- 18 (1) The full legal name, residential address of principal residence, and mailing addresses  
19 address of the licensee;
- 20 (2) ~~The licensee's color photograph~~ A full facial digital photograph of the licensee;
- 21 (3) A distinguishing number assigned to the licensee;
- 22 ~~(3)(4)~~ (4) A physical description of the licensee, including sex, height, weight, and eye color;
- 23 ~~(4)(5)~~ (5) Date of birth;
- 24 ~~(5)(6)~~ (6) An indication if the licensee is a donor pursuant to chapter 34-26;

- 1       ~~(6)~~(7) The licensee's signature;
- 2       ~~(7)~~(8) The class of commercial motor vehicle or vehicles which the licensee is authorized
- 3               to operate, including any endorsements or restrictions;
- 4       ~~(8)~~(9) The name of this state; ~~and~~
- 5       ~~(9)~~(10)       The dates between which the commercial driver license is valid;
- 6       (11) A barcode on the back of the license containing the name of this state, the
- 7               information printed on the license, and the card design revision date indicating the
- 8               most recent change or modification to the visible format of the card; and
- 9       (12) A security marking approved by the United States Department of Homeland Security
- 10               reflecting the level of compliance with 6 C.F.R. Part 37 as amended through
- 11               January 1, 2009.

12       Section 14. That § 32-12A-30 be amended to read as follows:

13       32-12A-30. A commercial driver license issued pursuant to this chapter, expires on the

14       licensee's birthday in the fifth year following the issuance of the license. Any nonresident

15       commercial driver license expires on the date of expiration of the applicant's authorized stay in

16       the United States as determined by the systematic alien verification for entitlements system or

17       alternate method approved by the United States Department of Homeland Security or, if there

18       is no expiration date, for a period no longer than one year from date of issuance. However, no

19       nonresident commercial driver license may expire on a date later than the licensee's birthday in

20       the fifth year following the issuance of the license.

21       Section 15. This Act is effective December 31, 2009.