

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

400Q0286

HOUSE APPROPRIATIONS ENGROSSED NO. **HB 1040** - 1/30/2009

Introduced by: The Committee on Appropriations at the request of the Department of Health

1 FOR AN ACT ENTITLED, An Act to revise certain license, registration, and inspection fees
2 related to food service establishments, lodging establishments, and campgrounds.

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

4 Section 1. That § 34-18-1 be amended to read as follows:

5 34-18-1. Terms used in this chapter mean:

- 6 (1) "Campground," a plot of ground for public use upon which two or more campsites
7 are located, established, maintained, advertised, or held out to the public to be a place
8 where camping units can be located and occupied as temporary living quarters for
9 children or adults, or both. Camping units are considered to be trailers, tent campers,
10 campers, tents, recreational park trailers, or other equipment that may be used by the
11 public at individual campsites located at campgrounds or areas used by the public as
12 campgrounds;
- 13 (2) "County fair," any fair or celebration operated by any county of this state and under
14 the supervision of a county fair board, county fair association, or the county board of
15 commissioners;



- 1 (3) "Department," the Department of Health;
- 2 (4) "Food," any raw, cooked, or processed edible substance, beverage, or ingredient used
3 or intended for use or for sale in whole or in part for human consumption;
- 4 (5) "Food service establishment," any fixed restaurant; coffee shop; cafeteria; short-order
5 café; luncheonette; grill; tearoom; sandwich shop; soda fountain; tavern; bar; cocktail
6 lounge; night club; roadside stand; catering kitchen; delicatessen; bakery; grocery
7 store; boardinghouse; or similar place in which food or drink is prepared for sale or
8 for service to the public on the premises or elsewhere with or without charge;
- 9 (6) "Full-service campground," a campground that provides services to accommodate all
10 types of campers and camping units. The campground shall have a service building,
11 an approved water supply, and an approved waste collection system;
- 12 (7) "Hotel," any hotel, motel, lodge, resort, cabins, building, or buildings with more than
13 ten rental units which is used to provide sleeping accommodations for a charge to the
14 public;
- 15 (8) "Limited-service campground," a campground that offers limited services for self-
16 contained and independent camping units only. All camping units shall be equipped
17 with separate potable water and sewage holding tanks on each unit. The campground
18 shall have an approved water supply and an approved waste collection system;
- 19 (7)(9) "Lodging establishment," any building or other structure and property or premises
20 kept, used, maintained, advertised or held out to the public to be a place where
21 sleeping accommodations are furnished for pay to two or more transient guests. The
22 term includes hotels, motels, cabins, bed and breakfast establishments, lodges,
23 vacation home establishments, dude ranches, and resorts;
- 24 (8)(10) "Mobile food service establishment," any mobile unit in which food or drink

1 is prepared for sale or for service to the public with or without charge;

2 ~~(9)~~(11) "Nonprofit organization," any governmental organization, church, fraternal,
3 social, school, youth, or other similar organization that is organized and
4 operated for a common good and not for the specific monetary gain of any
5 person or persons;

6 ~~(10)~~(12) "Owner," the operator, agent, proprietor, manager, or licensee whether it be a
7 person, firm, corporation, limited liability company, or association;

8 (13) "Primitive campground," a campground accessible by nonmotorized methods of
9 travel. The campground shall be equipped with an approved limited waste collection
10 system;

11 ~~(11)~~(14) "Rental unit," any room, cabin, or other quarters that may be rented to a guest
12 for sleeping accommodations;

13 ~~(12)~~(15) "Secretary," the secretary of the Department of Health;

14 ~~(13)~~ (16) "Specialty resort," any bed and breakfast establishment, lodge, dude ranch,
15 resort, building, or buildings used to provide accommodations or recreation
16 for a charge to the public, with no more than ten rental units for up to an
17 average of twenty guests per night and in which meals are provided to only the
18 guests staying at the specialty resort;

19 ~~(14)~~(17) "State Fair," the fair at Huron, South Dakota, operated by the Department of
20 Agriculture;

21 (18) "Temporary campground," a campground that is operated for a single event such as
22 a fair, rally, or festival involving the gathering of camping units and is licensed for
23 a maximum of fourteen consecutive days or less;

24 ~~(15)~~ (19) "Temporary food service establishment," any food service establishment

1 which operates at a fixed location for a temporary period of time, not to
2 exceed two weeks, in connection with a fair, carnival, circus, public
3 exhibition, or similar transitory gathering;

4 ~~(16)~~(20) "Transient guest," any person who resides in a lodging establishment less than
5 four consecutive calendar weeks;

6 ~~(17)~~(21) "Vacation home establishment," any home, cabin, or similar building that is
7 rented, leased, or furnished in its entirety to the public on a daily or weekly
8 basis for more than fourteen days in a calendar year and is not occupied by an
9 owner or manager during the time of rental. This term does not include a bed
10 and breakfast establishment as defined in subdivision 34-18-9.1(1);

11 (22) "Water recreational facility," any artificial basin of water located at a facility licensed
12 pursuant to chapter 34-18 constructed, installed, modified, or improved for the
13 purpose of swimming, wading, diving, or recreation, including swimming pools,
14 spas, hot tubs, and water slides.

15 Section 2. That § 34-18-9.3 be amended to read as follows:

16 34-18-9.3. Any bed and breakfast establishment operating in this state shall register with the
17 Department of Health. A one-time registration fee of ~~twenty-five~~ thirty-eight dollars is required
18 before a bed and breakfast establishment may be operated. The fee shall be placed in the
19 Department of Health fee account. Any change in ownership or location of the bed and breakfast
20 establishment requires a new registration on a form provided by the department. The form shall
21 be submitted to the department along with payment of a ~~twenty-five~~ thirty-eight dollar
22 registration fee. The department may investigate any complaint made against any bed and
23 breakfast establishment.

24 Section 3. That § 34-18-10 be amended to read as follows:

1 34-18-10. Every owner of a lodging establishment, campground, food service, or mobile
2 food service establishment shall annually secure a license on or before the first day of ~~July~~ the
3 license renewal period or before beginning the operation of the establishment or campground
4 after making proper application on a form provided by the department, accompanied by the
5 proper license fee. The initial application form shall be verified under oath and shall contain the
6 following:

- 7 (1) The name and address of the establishment or campground and previous name, if
8 changed due to a change in ownership;
- 9 (2) The name, address, and telephone number of the owner and operator of the
10 establishment or campground;
- 11 (3) A specification of the type of license applied for;
- 12 (4) If for a lodging establishment license, a description of the size of the establishment
13 and whether it has a ~~swimming pool~~ water recreational facility;
- 14 (5) If for a campground license, a description of the size and type of the campground and
15 whether it has a ~~swimming pool~~ water recreational facility;
- 16 (6) If for a food service or mobile food service establishment license, a description of the
17 size of the establishment;
- 18 (7) A license fee schedule; and
- 19 (8) A certification of consent to allow inspections of the establishment or campground
20 by authorized department inspectors during business hours upon the presentation of
21 identification.

22 Section 4. That chapter 34-18 be amended by adding thereto a NEW SECTION to read as
23 follows:

24 A one-time initial license fee of one hundred dollars shall be charged to any new food

1 service establishment, lodging establishment, or campground upon initial licensure.

2 Section 5. That § 34-18-11 be amended to read as follows:

3 34-18-11. The annual license fee for a food service establishment or a lodging establishment
4 shall be ~~established by the Department of Health through rules adopted pursuant to chapter 1-26~~
5 as follows:

6 (1) Food service establishment with no seating, ninety dollars;

7 (2) Food service establishment with one to fifty seats, inclusive, one hundred twenty
8 dollars;

9 (3) Food service establishment with fifty-one to one hundred seats, inclusive, one
10 hundred eighty dollars;

11 (4) Food service establishment with one hundred one or more seats, two hundred twenty-
12 five dollars;

13 (5) Vacation home establishment, forty-five dollars;

14 (6) Specialty resort, forty-five dollars; and

15 (7) Hotel, two dollars and twenty-five cents per unit, with a minimum of forty-five
16 dollars.

17 Section 6. That § 34-18-11.1 be amended to read as follows:

18 34-18-11.1. The annual license fee for a campground shall be ~~established by the Department~~
19 ~~of Health through rules adopted pursuant to chapter 1-26~~ as follows:

20 (1) Full-service campground;

21 (a) Two to twenty-five campsites, inclusive, seventy-five dollars;

22 (b) Twenty-six to one hundred campsites, inclusive, one hundred thirteen dollars;

23 (c) One hundred one to two hundred campsites, inclusive, one hundred fifty
24 dollars;

1 (d) Two hundred one to three hundred campsites, inclusive, one hundred eighty-
2 eight dollars;

3 (e) Three hundred one or more campsites, two hundred twenty-five dollars;

4 (2) Limited-service campground, one hundred thirteen dollars;

5 (3) Temporary campground, seventy-five dollars; and

6 (4) Primitive campground, seventy-five dollars.

7 Section 7. That § 34-18-13 be amended to read as follows:

8 34-18-13. A ~~reduced prorated~~ license fee ~~in the amount of one-half the applicable annual~~
9 ~~license fee~~ shall be charged for each new lodging establishments, campgrounds establishment,
10 campground, and food service ~~establishments~~ establishment beginning operations after the first
11 day of ~~January each year~~ the license renewal period and for changes in ownership and location
12 of ~~such any existing establishments~~ establishment and ~~campgrounds~~ campground after the first
13 day of ~~January each year~~ the license renewal period. To implement this section, the department
14 may promulgate rules pursuant to chapter 1-26.

15 Section 8. That § 34-18-16 be amended to read as follows:

16 34-18-16. The annual license fee for a mobile food service establishment shall be
17 ~~twenty-five~~ thirty-eight dollars.

18 Section 9. That § 34-18-17 be amended to read as follows:

19 34-18-17. ~~It shall be the duty of each~~ Each owner of a temporary food service establishment
20 ~~to shall~~ secure a license before beginning the operation of ~~such~~ the establishment after making
21 proper application on a form provided by the department and accompanied by the proper license
22 fee. The license fee for a temporary food service establishment shall be ~~twenty-five~~ thirty-eight
23 ~~dollars. Those businesses~~ Any business which ~~offer~~ offers food at no cost or consideration not
24 more than three times in any calendar year and no more than three consecutive days at any given

1 time in conjunction with a grand opening, promotion, or special product showing ~~shall be is~~
2 exempt from the licensing and license fee provisions of this chapter. Such exemption from the
3 licensing and license fee provisions does not release the owner of ~~such establishments~~ the
4 establishment from compliance with the public health requirements of this chapter and the rules
5 ~~and regulations of the department. After having satisfied himself promulgated pursuant to this~~
6 chapter. If the secretary is satisfied that such the temporary food service establishment is in
7 compliance with this chapter and the rules ~~and regulations of the department~~ promulgated
8 pursuant to this chapter, the secretary ~~of health~~ shall issue a license for thirty days from the date
9 of issuance.

10 Section 10. That § 34-18-25.1 be amended to read as follows:

11 34-18-25.1. The department shall, at least annually, make one inspection of ~~every~~ each
12 lodging establishment and campground and, at least twice annually, of ~~every~~ each food service
13 establishment or mobile food service licensed under this chapter to ascertain that ~~such the~~
14 lodging establishment, campground, food service establishment, or mobile food service is in
15 compliance with this chapter and the rules promulgated ~~thereunder~~ pursuant to this chapter. The
16 department shall charge an inspection fee of twenty-five dollars for each inspection. The
17 inspection shall take place during business hours and shall be conducted by an authorized
18 department inspector after presentation of identification. The scope of the inspection is limited
19 to those areas provided for in this chapter and the rules promulgated ~~thereunder~~ pursuant to this
20 chapter.

21 Section 11. That chapter 34-18 be amended by adding thereto a NEW SECTION to read as
22 follows:

23 Each facility licensed pursuant to chapter 34-18 with one water recreational facility shall be
24 charged an annual fee of forty dollars. Each facility licensed pursuant to chapter 34-18 with

1 more than one water recreational facility shall be charged an annual fee of sixty-five dollars.

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

615Q0438

HOUSE LOCAL GOVERNMENT ENGROSSED NO. **HB 1117** - 1/29/2009

Introduced by: Representatives Van Gerpen, Hunhoff (Bernie), Olson (Betty), Rausch, and Rounds and Senators Gant, Bartling, Kloucek, Miles, and Olson (Russell)

1 FOR AN ACT ENTITLED, An Act to permit water user districts to provide certain health and
2 life insurance benefits.

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

4 Section 1. That chapter 46A-9 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 A water user district may enroll in any authorized group health insurance plan, group dental
7 insurance plan, or both, for the members of the board of directors of the district. The plan may
8 provide for group health and dental insurance against the financial cost of hospital, surgical, and
9 medical treatment and care, and such other coverage benefits, including a group life insurance
10 plan and a group disability income insurance plan, as may be deemed appropriate and desirable
11 by the district.



State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

318Q0335

HOUSE LOCAL GOVERNMENT ENGROSSED NO. **HB 1119** - 1/29/2009

Introduced by: Representatives Cutler, McLaughlin, and Street and Senators Tieszen, Abdallah, and Gillespie

1 FOR AN ACT ENTITLED, An Act to permit background checks for persons seeking
2 employment with municipalities.

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

4 Section 1. Each person over eighteen years of age seeking employment with a municipality
5 shall submit, subject to the discretion of the municipality, to a state and federal criminal
6 background investigation by means of fingerprint checks by the South Dakota Division of
7 Criminal Investigation and the Federal Bureau of Investigation. The municipality may submit
8 completed fingerprint cards to the Division of Criminal Investigation before the prospective new
9 employee enters into service. Upon completion of the state and federal criminal background
10 check, the Division of Criminal Investigation shall forward to the municipality all information
11 obtained as a result of the check. Failure to submit or cooperate with the criminal background
12 investigation is grounds for denial of an application.



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

616Q0623

SENATE EDUCATION

ENGROSSED NO. **HB 1154** - 2/17/2009

Introduced by: Representatives Cutler, Blake, Bolin, Dreyer, Engels, Fargen, Frerichs, Hunhoff (Bernie), Peters, Thompson, and Turbiville and Senators Dempster, Knudson, Merchant, Nelson, Nesselhuf, Novstrup (Al), Schmidt, and Turbak Berry

1 FOR AN ACT ENTITLED, An Act to revise certain requirements for eligibility for opportunity
2 scholarships.

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

4 Section 1. That § 13-55-31 be amended to read as follows:

5 13-55-31. In order to be eligible for a South Dakota opportunity scholarship award, a student
6 shall:

- 7 (1) Be a resident of South Dakota at the time of graduation from high school;
- 8 (2) Have a composite score of 24, or higher, on the test administered by the American
9 College Testing Program or an equivalent score as determined by the Board of
10 Regents on the Scholastic Assessment Test. The student shall take the ACT or SAT
11 test before beginning postsecondary education;
- 12 (3) Meet the high school course requirements for graduation from the distinguished high
13 school program as provided in section 24:43:11:05 of the Administrative Rules of



1 South Dakota as in effect on January 1, 2008;

2 (4) Attend a university, college, or technical school that is accredited by the North
3 Central Association of Colleges and Schools and that provides instruction from a
4 campus located in South Dakota; and

5 (5) Enter into the program within five years of graduation from high school or within one
6 year of the student's release from active duty with an active component of the armed
7 forces if the release is within five years of the student's graduation from high school.

8 If a student attends full-time a regionally accredited university, college, or technical
9 school located outside South Dakota and within two years following high school
10 graduation or within two years following release from active military service returns
11 to the state to attend full-time a regionally accredited university, college, or technical
12 school, the student is eligible to receive a partial award.

13 A student is eligible to participate in the South Dakota opportunity scholarship program for
14 the equivalent of four academic years (eight consecutive spring and fall terms) or until the
15 attainment of a baccalaureate degree, whichever comes first, and shall maintain continuous
16 attendance, enrolling in consecutive spring and fall terms. However, the a participating student
17 who leaves a university, college, or technical school in South Dakota to attend a university,
18 college, or technical school outside the state for no more than two consecutive terms may be
19 reinstated in the opportunity scholarship program if the student returns to a university, college,
20 or technical school in South Dakota and meets the requirements of § 13-55-34. The executive
21 director of the Board of Regents may grant additional exceptions to the continuous enrollment
22 requirements for good cause shown.

23 A student who would have been eligible for the scholarship, but who applies after
24 completing one or more semesters of full-time work at an accredited institution, may be

1 admitted to the program only if the student has complied with the same grade point and credit
2 hour requirements that would apply to program participants. Admission granted under these
3 circumstances may not be retroactive, and eligibility for participation in the program shall be
4 reduced by one semester for each semester of work completed prior to admission to the
5 program.

6 Section 2. That § 13-55-34 be amended to read as follows:

7 13-55-34. In order to maintain eligibility, a student shall:

- 8 (1) Maintain a cumulative 3.0 grade point average on a 4.0 scale. Cumulative grade point
9 average shall be calculated after the second semester and every semester thereafter.
10 The student shall complete consecutive spring and fall terms in order to remain
11 eligible for continuation of the scholarship program from term to term. A student
12 whose cumulative grade point average falls below 3.0 on a 4.0 scale shall forfeit the
13 scholarship for the subsequent semester and for subsequent semesters until the
14 student has reestablished eligibility. To reestablish eligibility, the student shall
15 comply with all course load, enrollment, and proficiency examination requirements
16 for continued eligibility stated in §§ 13-55-30 to 13-55-35, inclusive, and the student
17 shall achieve a cumulative grade point average of 3.0, or greater, on a 4.0 scale. The
18 scholarship shall be reinstated beginning the semester following that in which the
19 student achieves a cumulative grade point average of 3.0, or greater, on a 4.0 scale.
20 Reinstatement of a scholarship does not extend the time allowed under the
21 scholarship program; any scholarship award forfeited cannot be reclaimed after a
22 student has regained eligibility. A student whose cumulative grade point average falls
23 below 3.0 on a 4.0 scale a second time forfeits the scholarship for all subsequent
24 semesters;

1 (2) Complete fifteen credit hours of instruction per semester. The student shall enroll in
2 and complete at least fifteen credit hours of instruction in each consecutive spring
3 and fall term. If the executive director of the Board of Regents determines that a
4 student's failure to enroll or to maintain continued enrollment occurred as a direct
5 result of legitimate factors outside the student's control, or has resulted from the
6 student's participation in an activity that in the executive director's judgment provides
7 knowledge or experience that will enhance the student's academic pursuits, the
8 executive director may extend the student's eligibility to participate in the program
9 for up to two additional years, if the student does not enroll in a noneligible
10 institution; and

11 (3) Sit for and pass all sections of a college proficiency exam as required by Board of
12 Regents Policy Number 2.28 as in effect on January 1, 2003, at the end of the
13 sophomore year, or as soon as practicable if the student is not attending a South
14 Dakota institution that term. The Board of ~~regents~~ Regents may review and adjust the
15 proficiency examinations administered in keeping with sound academic practice. If
16 such changes are made, the Board of Regents shall notify all eligible institutions of
17 new testing standards or requirements. If the student fails to pass the proficiency
18 examinations the first time, eligibility is forfeited for continuation in the scholarship
19 program.

20 Section 3. That ARSD 24:40:13:03 be amended to read as follows:

21 24:40:13:03. Loss of eligibility due to attendance outside South Dakota. A student is not
22 eligible for the scholarship program if the student attends full time an institution located outside
23 South Dakota for ~~one or more~~ than two semesters or quarters. Full-time enrollment in a distance
24 education program offered by an institution located outside South Dakota constitutes attendance

1 outside South Dakota for purpose of this rule. A student enrolled in an institution outside South
2 Dakota is deemed to attend full time if the student carries a full-time academic workload as
3 determined by the institution under a standard applicable to all students enrolled in a particular
4 educational program. The student's workload may include any combination of courses, work,
5 research, or special studies that the institution considers sufficient to classify the student as a
6 full-time student.

7 Section 4. That ARSD 24:40:13:06 be amended to read as follows:

8 24:40:13:06. Persistence requirements for continuing eligibility. Upon entering the
9 scholarship program, each student shall maintain ~~continuous~~ attendance, ~~enrolling in~~
10 ~~consecutive spring and fall terms~~ as required by SDCL 13-55-31, subject to the following
11 exceptions:

12 (1) A student may petition the executive director to be excused from strict compliance with
13 this regulation during semesters in which the student participates in institutionally sponsored
14 or approved exchange programs, internships, or similar structured, supervised, credit-bearing
15 learning experiences that preclude enrollment in the participating institution's standard
16 curriculum;

17 (2) A student who fails to complete continuous enrollment requirements because the student
18 must report for active military service will not thereby lose his or her eligibility;

19 (3) The executive director may waive continuous enrollment requirements for good cause
20 shown and may place such conditions upon the waiver as may be necessary and prudent to
21 achieve the objectives of the scholarship program.

22 Section 5. That ARSD 24:40:13:02 be amended to read as follows:

23 24:40:13:02. Initial eligibility requirements. In order to be eligible to receive a South
24 Dakota Opportunity Scholarship, a student must:

1 (1) Be graduated from high school with a cumulative average grade of "B" (3.0 on a 4.0
2 scale), or greater, for all work attempted;

3 (2) Be a resident of South Dakota at the time of graduation from high school;

4 (3) Take the test administered by the American College Testing Program (ACT) or the
5 Scholastic Assessment Test (SAT) before being graduated from high school;

6 (4) Receive a composite score on the ACT of at least 24 or a combined verbal and
7 mathematics score on the SAT of at least 1070;

8 (5) Complete the required number of high school courses in the following subjects:

9 (a) Four units of English: courses with major emphasis upon grammar, composition,
10 or literary analysis. One year of debate instruction may be included to meet this requirement;

11 (b) Four units of algebra or higher mathematics: algebra, geometry, trigonometry, or
12 other advanced mathematics, including accelerated or honors mathematics (algebra) provided
13 at the 8th grade level. Arithmetic, business, consumer or general mathematics, or other similar
14 courses, are not included;

15 (c) Four units of science, including three units of approved laboratory science: courses
16 in biology, chemistry, or physics in which at least one regular laboratory period is scheduled
17 each week. Accelerated or honors science (biology, physics, or chemistry) provided in the 8th
18 grade are accepted. Qualifying physical science or earth science courses (with lab) may be
19 accepted on a case-by-case basis;

20 (d) Three units of social studies: history, economics, sociology, geography, United
21 States or South Dakota government, American Problems, and similar courses;

22 (e) Two units of a modern or classical language, including American Sign Language.
23 The two units must be in the same language;

24 (f) One unit of fine arts: effective for the fall 2005 semester for students graduating

1 from South Dakota high schools, one unit in art, theatre, or music. Such credit may be in
2 appreciation, analysis, or performance. Through the fall 2004 semester for students graduating
3 from South Dakota high schools, one-half unit of art, theatre, or music is required. Such credit
4 may be in appreciation, analysis, or performance;

5 (g) One half unit of computer science: students must have basic keyboarding skills,
6 experience in using computer word processing, database, and spreadsheet packages, and
7 experience in using the Internet or other wide area networks;

8 ~~Any~~ No more than one course in which a student received a final grade below a "C" (2.0 on
9 a 4.0 scale) may ~~not~~ be counted for purposes of this subdivision. If a student who receives
10 disqualifying grades in courses required under this subdivision retakes those courses while in
11 high school, the student may still qualify for eligibility if the student has the required number
12 of courses with grades of C or above in each subcategory;

13 (6) Attend a participating institution; and

14 (7) Enter into the scholarship program within five years of the date of graduation from high
15 school. A student who entered active military duty immediately after the date of graduation from
16 high school may qualify for the scholarship if the student's release from military service occurs
17 within five years from the student's graduation and the student enters the scholarship program
18 within one year of the student's release from active military duty.

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

733Q0531

SENATE EDUCATION ENGROSSED NO. **SB 126** - 2/17/2009

Introduced by: Senators Knudson, Adelstein, Bradford, Brown, Fryslie, Gant, Gray, Hansen (Tom), Haverly, Howie, Hunhoff (Jean), Jerstad, Merchant, Schmidt, Tieszen, Turbak Berry, and Vehle and Representatives Sly, Hamiel, Killer, Lange, Lucas, McLaughlin, Romkema, Sorenson, Steele, Vanderlinde, and Verchio

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding school attendance.

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

3 Section 1. That § 13-27-1 be amended to read as follows:

4 13-27-1. ~~Every~~ Any person having control of a child, who is six years old by the first day
5 of September and who has not exceeded the age of eighteen, shall cause the child to regularly
6 and annually attend some public or nonpublic school for the entire term during which the public
7 school in the district in which the person resides, or the school to which the child is assigned
8 to attend, is in session, until the child reaches the age of eighteen years, unless the child has
9 graduated or is excused as provided in this chapter. However, the requirements of this section
10 are met if a child who is at least sixteen years of age enrolls in a general education development
11 test preparation program that is school-based or for which a school contracts and successfully
12 completes the test or reaches the age of eighteen years.

13 A child is eligible to enroll in a school-based or school-contracted general education



1 development test preparation program or take the general education development test if the child
2 is sixteen or seventeen years of age, and the child presents written permission from the child's
3 parent or guardian and one of the following:

4 (1) Verification from a school administrator that the child will not graduate with the
5 child's cohort class because of credit deficiency;

6 (2) Authorization from a court services officer;

7 (3) A court order requiring the child to enter the program;

8 (4) Verification that the child is under the direction of the Department of Corrections;
9 or

10 (5) Verification that the child is enrolled in Job Corps as authorized by Title I-C of the
11 Workforce Investment Act of 1998, as amended to January 1, 2009.

12 Any child who is sixteen or seventeen years of age and who completes the general education
13 development test preparation program may take the general education development test
14 immediately following release from the school program or when ordered to take the test by a
15 court. Any such child who fails to successfully complete the test shall re-enroll in the school
16 district and may continue the general education development preparation program or other
17 suitable program as determined by the school district.

18 Any child under age six enrolled in any elementary school or kindergarten program is
19 subject to the compulsory attendance statutes of this state. A waiver of the compulsory
20 attendance requirement for children under the age of seven years of age shall be granted by the
21 school district upon the request of the parents.

22 Section 2. That section 1 of chapter 80 of the 2006 Session Laws be repealed.

23 Section 3. That § 13-27-1 be amended to read as follows:

24 13-27-1. ~~Every~~ Any person having control of a child, who is not younger than five or older

1 than six years old by the first day of September and who has not exceeded the age of eighteen,
2 shall cause the child to regularly ~~and annually~~ attend some public or nonpublic school for the
3 entire term during which the public school in the district in which the person resides, or the
4 school to which the child is assigned to attend, is in session, until the child reaches the age of
5 eighteen years, unless the child has graduated or is excused as provided in this chapter.
6 However, the requirements of this section are met if a child who is at least sixteen years of age
7 enrolls in a general education development test preparation program that is school-based or for
8 which a school contracts and successfully completes the test or reaches the age of eighteen
9 years.

10 A child is eligible to enroll in a school-based or school-contracted general education
11 development test preparation program or take the general education development test if the child
12 is sixteen or seventeen years of age, and the child presents written permission from the child's
13 parent or guardian and one of the following:

- 14 (1) Verification from a school administrator that the child will not graduate with the
15 child's cohort class because of credit deficiency;
16 (2) Authorization from a court services officer;
17 (3) A court order requiring the child to enter the program;
18 (4) Verification that the child is under the direction of the Department of Corrections;
19 or
20 (5) Verification that the child is enrolled in Job Corps as authorized by Title I-C of the
21 Workforce Investment Act of 1998, as amended to January 1, 2009.

22 Any child who is sixteen or seventeen years of age and who completes the general education
23 development test preparation program may take the general education development test
24 immediately following release from the school program or when ordered to take the test by a

1 court. Any such child who fails to successfully complete the test shall re-enroll in the school
2 district and may continue the general education development preparation program or other
3 suitable program as determined by the school district.

4 ~~Any child under age six enrolled in any elementary school or kindergarten program is~~
5 ~~subject to the compulsory attendance statutes of this state. A waiver of the compulsory~~
6 ~~attendance requirement for children under the age of seven years of age shall be granted by the~~
7 ~~school district upon the request of the parents. All children shall attend kindergarten prior to age~~
8 ~~seven. Any child who transfers from another state may proceed in a continuous educational~~
9 ~~program without interruption if the child has not previously attended kindergarten.~~

10 Section 4. The provisions of section 3 of this Act are effective July 1, 2010.

11 Section 5. The Department of Labor may promulgate rules pursuant to chapter 1-26 to
12 establish general education development testing procedures for children who take the test
13 pursuant to § 13-27-1.

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

276Q0387

SENATE COMMERCE ENGROSSED NO. **SB 133** - 2/17/2009

Introduced by: Senators Gillespie, Knudson, and Olson (Russell) and Representatives Nygaard, Brunner, Cutler, Hunhoff (Bernie), Peters, Pitts, and Rounds

1 FOR AN ACT ENTITLED, An Act to provide for central filing of documents necessary to
2 perfect a security interest in personal property or fixtures of a rural electric cooperative.

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

4 Section 1. That chapter 47-21 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Any trust deed or mortgage executed by a cooperative organized under the provisions of
7 chapter 47-21 or qualified in accordance with the provisions of § 47-21-74 or §§ 47-1A-1501
8 to 47-1A-1532, inclusive, relative to the qualification of foreign cooperatives to transact
9 business in this state, shall be filed and recorded in the Office of the Secretary of State. The
10 filing and recording of the trust deed or mortgage creates a lien upon the property, real and
11 personal, from the time of the filing. The filing and recording in the Office of the Secretary of
12 State has the same effect to any property as the filing or recording of a similar instrument in
13 each office of the register of deeds where the property is situated.

14 Section 2. That chapter 47-21 be amended by adding thereto a NEW SECTION to read as



1 follows:

2 Notwithstanding any provision to the contrary in chapter 57A-9, any filing required under
3 the uniform commercial code in order to perfect a security interest against the personal property
4 or fixtures of a debtor rural electric cooperative shall be made and maintained in the Office of
5 the Secretary of State. If the financing statement covers goods of a debtor rural electric
6 cooperative which are or are to become fixtures, no description of the real estate or the name
7 of the record owner thereof is required. Filing of a financing statement against the property of
8 a debtor rural electric cooperative is effective until released or terminated.

9 Section 3. That chapter 47-21 be amended by adding thereto a NEW SECTION to read as
10 follows:

11 A mortgage or trust deed to secure a debt executed by a rural electric cooperative, covering
12 the whole or part of its easements or other less than fee simple interests in real estate used in the
13 transmission or distribution of electric service, and also covering the fixtures of the rural electric
14 cooperative which are annexed to it, may be filed in the Office of the Secretary of State along
15 with, or as part of, the financing statement covering the fixtures. The filing of the mortgage or
16 deed of trust has the same effect, and is notice of the rights and interest of the mortgagee or
17 trustee in the easements and other less than fee simple interest in real estate to the same extent
18 as if the mortgage or deed of trust were duly recorded in the office of the register of deeds of
19 each county in which the real estate is situated. The effectiveness of the filing terminates at the
20 same time as provided in section 2 of this Act for the termination of the effectiveness of a
21 fixture filing. For the purpose of this section, a mortgage or deed of trust filed under this section
22 contains a sufficient description to give notice of the rights and interest of the mortgagee or
23 trustee in the easements and other less than fee simple interest in the real estate used for the
24 transmission and distribution of electric service of the rural electric cooperative if the mortgage

1 or deed of trust states that the security includes easements, rights-of-way of, or transmission or
2 distribution systems of, or lines of, the rural electric cooperative, or all property owned by the
3 rural electric cooperative. A mortgage or deed of trust filed before July 1, 2009, pursuant to
4 § 47-21-46, which complies with the provisions of this section, is considered filed and effective
5 under this section as of July 1, 2009. Section 47-21-46 applies to real estate owned in fee simple
6 by a rural electric cooperative. Any mortgage or deed of trust filed before July 1, 2009, with the
7 Office of the Secretary of State pursuant to chapter 57A-9, that complies with the provisions of
8 this section, is considered filed and effective under this section as of July 1, 2009.

9 Section 4. That chapter 47-21 be amended by adding thereto a NEW SECTION to read as
10 follows:

11 To the extent not superceded by the specific provisions of sections 1 to 4, inclusive, of this
12 Act, the uniform commercial code and other applicable laws remain in full force and effect and
13 supplement the provisions of sections 1 to 4, inclusive, of this Act. Any rural electric
14 cooperative may make a single filing under sections 1 to 3, inclusive, of this Act, and the
15 secretary of state shall accept the same as a single filing. The financing statement shall identify
16 the rural electric cooperative as a transmitting utility and shall be indexed under § 57A-9-501(b),
17 but the index may also refer to the secretary of state's recording data for real estate records under
18 sections 1 to 3, inclusive, of this Act and the retention by the secretary of state of a microfilm
19 or other photographic copy of the document filed in the real estate records shall be sufficient to
20 comply with the retention requirements of § 57A-9-522.

21 Section 5. That chapter 47-21 be amended by adding thereto a NEW SECTION to read as
22 follows:

23 Any trust deed or mortgage described in § 47-21-46 and sections 1 to 3, inclusive, of this
24 Act may be assigned or discharged by filing for record in the Office of the Secretary of State and

1 in the Office of the Register of Deeds of each county, if any, in which the trust deed or mortgage
2 has been filed for record an instrument of assignment or discharge executed in the manner and
3 providing the information required with respect to real estate mortgages by §§ 44-8-13 and
4 44-8-14, respectively. However, no such instrument need provide the description of the
5 mortgaged property, except that an instrument of discharge whereby less than all the mortgaged
6 property is released from the lien of the trust deed or mortgage shall provide the full description
7 of, or clearly identify by reference to numbered or lettered portions of the descriptions as the
8 same appears in the trust deed or mortgage, the property so released.

9 Section 6. That chapter 47-21 be amended by adding thereto a NEW SECTION to read as
10 follows:

11 The secretary of state shall charge and collect a filing fee of one dollar per page for each
12 document filed pursuant to sections 1 to 3, inclusive, of this Act and § 49-34-11.

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

167Q0583

SENATE STATE AFFAIRS

ENGROSSED NO. **SB 143** - 2/17/2009

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

Introduced by: Senators Gant, Abdallah, Gray, Miles, Nesselhuf, Olson (Russell), Schmidt, and Turbak Berry and Representatives Schlekeway, Bolin, Brunner, Curd, Cutler, Hamiel, Kirkeby, Lucas, and Steele

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

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

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



State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

428Q0588

SENATE STATE AFFAIRS

ENGROSSED NO. **SB 144** - 2/17/2009

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

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

1 FOR AN ACT ENTITLED, An Act to require certain contracts to be retained and made
2 available by a publicly accessible internet website or database.

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

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

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



State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

532Q0759

SENATE AGRICULTURE AND NATURAL RESOURCES

ENGROSSED NO. **SB 181** - 2/17/2009

Introduced by: Senators Hansen (Tom), Adelstein, Knudson, Merchant, Olson (Russell), and Vehle and Representatives Carson, Burg, Feinstein, Frerichs, Gibson, and Vanneman

1 FOR AN ACT ENTITLED, An Act to make an appropriation for the support of the state fair.

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

3 Section 1. There is hereby appropriated from the general fund the sum of one dollar (\$1),
4 or so much thereof that may be necessary, to the Department of Agriculture for the support of
5 the state fair.

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



State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

583Q0757

SENATE JUDICIARY ENGROSSED NO. **SB 186** 2/17/2009

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

Introduced by: Senator Olson (Russell)

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

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

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

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

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

13 Any chronically delinquent obligor of a payment or installment of support under an order
14 for support, as defined in § 25-7A-1, is subject to a late payment fee equal to ten percent of the



1 ordered child support or fifty dollars, whichever is greater, for each month in the preceding
2 twelve months that the payment was five or more days delinquent or the payment was less than
3 ninety percent of the ordered child support. Any obligee seeking the late payment fee shall file
4 in the office of the clerk of courts of the county in which the order was filed, or in a county in
5 which a transcript of the order is filed and docketed, a sworn statement or certificate showing
6 the date of receipt of each month of delinquent payment and the amount received and the
7 amount due for the late payment fee. The clerk of courts shall file and docket the statement or
8 certificate with the order for support or transcript thereof. The late payment fee is effective from
9 the date and time of docketing the statement or certificate in the office of the clerk of courts. The
10 obligee shall send a copy of the docketed statement or certificate by certified mail to the obligor
11 at the obligor's most recent residential or employer address on file with the tribunal as defined
12 in § 25-9B-101.

13 Section 3. That chapter 25-7 be amended by adding thereto a NEW SECTION to read as
14 follows:

15 The obligor may petition the court to vacate the judgment entered by the clerk of courts
16 pursuant to section 2 of this Act. Any petition shall be filed within thirty days of the date of the
17 certified mailing of the docketed statement or certificate to the obligor. The obligor has the
18 burden of showing an inability to timely pay any delinquent payment. If the court determines
19 that no delinquency exists or that any delinquent payment was caused by the inability of the
20 obligor to timely pay the child support, the court may vacate or amend the judgment for any
21 month in which the court determines that the delinquent payment was caused by an inability to
22 pay.

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

1 The obligee shall send a copy of the statement or certificate pursuant to section 2 of this Act,
2 to the obligor at the obligor's most recent residential or employer address on file with the
3 tribunal as defined in § 25-9B-101, by certified mail not less than ten days before filing the
4 statement or certificate with the clerk of courts. The obligee shall inform the obligor in the
5 mailing that if payment of the delinquent child support and late payment fee is received within
6 ten days, the statement or certificate will not be filed with the clerk of courts.