

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

975Q0370

SENATE ENGROSSED NO. **HB 1091** - 3/5/2009

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

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

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

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

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



State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

256Q0494

SENATE ENGROSSED NO. **HB 1240** - 3/5/2009

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 petty offense.

14 Section 3. That chapter 34-46 be amended by adding thereto a NEW SECTION to read as



1 follows:

2 Terms used in this Act mean:

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

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

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

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

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

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

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

- 24 (1) Generates ten percent or more of its annual gross income from the sale of cigars. For

1 the purposes of this section, a cigar is any individual roll of tobacco that has a
2 wrapper or cover consisting only of tobacco, that measures a number forty ring size
3 or larger, and that is sold without a filter;

4 (2) Has a humidor on the premises; and

5 (3) Is enclosed by solid walls or windows, a ceiling, and a solid door and is equipped
6 with a ventilation system by which exhausted air is not recirculated to nonsmoking
7 areas and smoke is not backstreamed into nonsmoking areas.

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

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

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

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

19 (1) Generates sixty-five percent of its annual gross income from the sale of tobacco,
20 tobacco products, and accessories for such products;

21 (2) Is enclosed by solid walls or windows, a ceiling, and a solid door that provides egress
22 to the outdoors; and

23 (3) Does not allow the consumption of alcoholic beverages on the premises.

24 Any retail tobacco store meeting the requirements of this section shall annually report to the

1 Department of Revenue and Regulation, on a form prescribed by the department, the revenue
2 generated from the sale of tobacco, tobacco products, and accessories for such products as a
3 percentage of annual gross income.

4 Section 8. That § 22-36-2 be repealed.

5 ~~— 22-36-2. No person may smoke tobacco or carry any lighted tobacco product in any public
6 place or place of employment. This section does not apply to any sleeping room in a lodging
7 establishment as defined in § 34-18-1, to any on-sale licensee pursuant to chapter 35-4, to any
8 video lottery licensed establishment pursuant to chapter 42-7A, to any licensee pursuant to
9 chapter 42-7B, or to any tobacco or packaged liquor store if the store is primarily used for the
10 sale of tobacco or alcoholic beverages, or both, and the sale of other products is merely
11 incidental.~~

12 ~~— A violation of this section is a petty offense.~~

13 Section 9. That § 22-36-3 be repealed.

14 ~~— 22-36-3. For the purposes of §§ 22-36-2 to 22-36-4, inclusive, a public place is any enclosed
15 indoor area to which the public is invited or to which the public is permitted, including any
16 hospital or medical or dental clinic; any nursing facility; any public library, museum, theater,
17 or concert hall; any elementary or secondary school building; any public conveyance; any jury
18 room; any elevator; any reception area; any restaurant; any retail service establishment; any
19 retail store; and any registered or unregistered day care program, day care center, day care
20 cooperative, or family day care home governed by chapter 26-6 during the time in which
21 children who are not family members of the day care provider are receiving care. A private
22 residence is not a public place unless it is used for day care.~~

23 Section 10. That § 22-36-4 be repealed.

24 ~~— 22-36-4. For the purposes of §§ 22-36-2 to 22-36-4, inclusive, a place of employment is any~~

1 ~~enclosed indoor area under the control of a public or private employer, including work areas,~~
2 ~~employee lounges and restrooms, conference and class rooms, employee cafeterias, and~~
3 ~~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

947Q0349

SENATE EDUCATION

ENGROSSED NO. **HB 1254** - 3/3/2009

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

Introduced by: Representatives McLaughlin, Bolin, Brunner, Dreyer, Gosch, Hunt, Kirkeby, Kopp, Krebs, Lust, Romkema, Schlekeway, Sly, and Turbiville and Senators Adelstein, Haverly, and Tieszen

- 1 FOR AN ACT ENTITLED, An Act to enhance education.
- 2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:
- 3 Section 1. Public education is hereby enhanced.



State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

400Q0402

SENATE ENGROSSED NO. **HB 1301** - 3/5/2009

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. However, nothing in this section exempts from taxation the value of any
4 leasehold interests in the property of the authority that is held by any third party. The authority
5 is exempt from the provisions of chapter 47-31B.

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

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

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

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

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

753Q0028

SENATE ENGROSSED NO. **SB 3** - 2/4/2009

Introduced by: Senators Knudson, Peterson, and Rhoden and Representatives Noem, Dennert, and Street at the request of the Agricultural Land Assessment Implementation and Oversight Advisory Task Force

1 FOR AN ACT ENTITLED, An Act to revise certain provisions concerning the assessment of
2 agricultural land.

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

4 Section 1. That § 10-6-33.28 be amended to read as follows:

5 10-6-33.28. Notwithstanding the provisions of § 10-6-33, beginning on July 1, 2009,
6 agricultural land shall be assessed based on its agricultural income value on a per acre basis. The
7 agricultural income value of agricultural land shall be determined on the basis of productivity
8 and the annual earnings capacity of the agricultural land. The productivity of agricultural land
9 and its annual earning capacity shall be based on data collected and analyzed pursuant to this
10 section and §§ 10-6-33.29 to 10-6-33.33, inclusive.

11 Agricultural income value is defined as the capitalized ~~average~~ annual earning capacity on
12 a per acre basis which has been adjusted by an amount that reflects the landowner's share of the
13 gross return. The capacity of cropland to produce agricultural products shall be based on the
14 income from crops or plants produced on the land. The capacity of noncropland to produce



1 agricultural products shall be based on cash rents or the animal unit carrying capacity of the
2 land, or a combination of both. For the purpose of this section, annual earning capacity for
3 ~~cropland and noncropland shall be determined by the 2009 and 2010 Legislature;~~

4 (1) Cropland is thirty-five percent of the annual gross return to the land; and

5 (2) Noncropland is one hundred percent of the annual gross return to the land based on
6 cash rent for noncropland.

7 The annual earning capacity shall be capitalized at a rate of six and six-tenths percent to
8 determine the agricultural income value.

9 Section 2. That § 10-6-33.29 be amended to read as follows:

10 10-6-33.29. The secretary of revenue and regulation shall enter into contracts with South
11 Dakota State University and, if necessary, the South Dakota Agricultural Statistics Service for
12 the purpose of creating a database to determine the agricultural income value of agricultural land
13 by county. The cropland data shall include: acres planted, acres harvested, yield per acre, and
14 ~~locally adjusted~~ statewide crop prices. ~~Locally adjusted crop prices shall be established by~~
15 ~~adjusting statewide prices.~~ The noncropland data shall include: cash rents, rangeland acres,
16 pastureland acres, rangeland AUM's per acre, pastureland AUM's per acre, grazing season data,
17 and statewide cow and calf prices. The secretary shall have such data collected for 2001, which
18 will serve as the first year of the database, and each year thereafter. The database shall consist
19 of the most recent eight years of data that have been collected and the two years, one year
20 representing the highest agricultural income value and one year representing the lowest
21 agricultural income value, shall be discarded from the database. The database for the 2010
22 assessment for taxes payable in 2011 shall consist of data from 2001 to 2008, inclusive, and the
23 database for each assessment year thereafter shall be adjusted accordingly. ~~The economics~~
24 ~~department~~ South Dakota State University shall provide the data for each county to the secretary

1 of revenue and regulation by June first of each year.

2 Section 3. That § 10-6-77 be amended to read as follows:

3 10-6-77. For the taxes payable in 2011, 2012, ~~and 2013~~, 2014, 2015, 2016, and 2017, the
4 total taxable value of ~~agricultural land and cropland~~ within any county may not increase or decrease
5 more than fifteen ten percent in any year. For the taxes payable in 2011, 2012, 2013, 2014, 2015,
6 2016, and 2017, the total taxable value of noncropland within any county may not increase or
7 decrease more than ten percent in any year.

8 Section 4. That section 3 of chapter 44 of the 2008 Session Laws be amended to read as
9 follows:

10 Section 3. That sections 1 and 2 of this Act be repealed on July 1, ~~2015~~ 2017.

11 Section 5. That chapter 10-6 be amended by adding thereto a NEW SECTION to read as
12 follows:

13 The secretary of revenue and regulation may enter into a contract for the collection of cash
14 rent information for agricultural land by county. Cash rent information shall be adjusted by soil
15 survey statistics if available.

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

18 Notwithstanding the provisions of §§ 10-6-33.28 to 10-6-33.33, inclusive, the director of
19 equalization may equalize the assessed valuation of all cropland if the total assessed valuation
20 of all cropland and total assessed valuation of all noncropland is equal to the total assessed
21 valuation of agricultural land as determined by the application of the provisions of this chapter.

22 Notwithstanding the provisions of §§ 10-6-33.28 to 10-6-33.33, inclusive, the director of
23 equalization may equalize the assessed valuation of all noncropland if the total assessed
24 valuation of all cropland and total assessed valuation of all noncropland is equal to the total

- 1 assessed valuation of agricultural land as determined by the application of the provisions of this
- 2 chapter.

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

672Q0048

HOUSE TAXATION ENGROSSED NO. **SB 4** - 3/5/2009

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

Introduced by: Senators Knudson, Peterson, and Rhoden and Representatives Noem, Dennert, and Street at the request of the Agricultural Land Assessment Implementation and Oversight Advisory Task Force

1 FOR AN ACT ENTITLED, An Act to provide for additional responsibilities to the Agricultural
2 Land Assessment Implementation and Oversight Advisory Task Force.

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

4 Section 1. That § 10-6-33.35 be amended to read as follows:

5 10-6-33.35. There is hereby established the Agricultural Land Assessment Implementation
6 and Oversight Advisory Task Force. The task force shall consist of the following fourteen
7 members:

8 (1) The speaker of the House of Representatives shall appoint four members of the
9 House of Representatives, no more than two of whom may be from one political
10 party;

11 (2) The speaker of the House of Representatives shall appoint three members of the
12 general public, at least one of the members shall have an agricultural background and
13 at least one of the members shall have a business background;

14 (3) The president pro tempore of the Senate shall appoint four members of the Senate,



1 no more than two of whom may be from one political party; and

2 (4) The president pro tempore of the Senate shall appoint three members of the general
3 public, at least one of the members shall have an agricultural background and at least
4 one of the members shall have a business background.

5 The initial appointments shall be made no later than July 1, 2008, and shall serve until
6 January 12, 2009. The speaker of the House of Representatives and president pro tempore of the
7 Senate before the close of each regular session of the Legislature held in odd-numbered years
8 shall appoint members to the task force for a term of two years. If there is a vacancy on the task
9 force, the vacancy shall be filled in the same manner as the original appointment.

10 The task force shall advise the department regarding the rules promulgated by the
11 department to administer the provisions concerning the assessment and taxation of agricultural
12 lands and shall review the implementation of the provisions of law concerning the assessment
13 and taxation of agricultural land. The task force shall report to the Senate and House of
14 Representatives and may submit a copy of its report to the Governor. The task force may present
15 draft legislation and policy recommendations to the Legislative Research Council Executive
16 Board.

17 The task force shall make recommendations in the following areas:

18 (1) The proper percentage of annual earning capacity to be used to determine the
19 agricultural income value pursuant to § 10-6-33.28; ~~and~~

20 (2) The proper capitalization rate in order to have total taxable valuation for the taxes
21 payable in 2011 from agricultural property be not more than total taxable valuation
22 for the taxes payable in 2010 from agricultural property plus the estimated growth in
23 agricultural property value in 2010;

24 (3) The changes, if any, that must be made to §§ 13-10-6, 13-16-7, 13-37-16, and 13-37-

1 35.1 to ensure that the total amount of additional taxes that may be generated on
2 agricultural land by a school district pursuant to the provisions of §§ 13-10-6, 13-16-
3 7, 13-37-16, and 13-37-35.1 will not provide a substantial property tax revenue
4 increase for the school district pursuant to the implementation of the productivity
5 system pursuant to §§ 10-6-33.28 to 10-6-33.33, inclusive; and
6 (4) The changes, if any, that must be made to §§ 13-10-6, 13-16-7, 13-37-16, and 13-37-
7 35.1 to ensure that the total amount of property taxes that may be lost on agricultural
8 land by a school district pursuant to the provisions of §§ 13-10-6, 13-16-7, 13-37-16,
9 and 13-37-35.1 will not provide a substantial property tax revenue decrease for the
10 school district pursuant to the implementation of the productivity system pursuant to
11 §§ 10-6-33.28 to 10-6-33.33, inclusive.

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

400Q0262

SENATE ENGROSSED NO. **SB 32** - 2/18/2009

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

1 FOR AN ACT ENTITLED, An Act to increase certain fees related to the use of motor vehicles.

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

3 Section 1. That chapter 32-5 be amended by adding thereto a NEW SECTION to read as
4 follows:

5 There is hereby imposed a fee of one dollar on each vehicle registered and licensed in this
6 state for the purpose of administering the Division of Highway Patrol. Before any vehicle is
7 registered pursuant to chapter 32-5 or 32-9, the county treasurer or Department of Revenue and
8 Regulation shall collect the highway patrol fee. Before any vehicle is registered pursuant to
9 chapter 32-10, the Department of Revenue and Regulation shall collect the highway patrol fee.
10 The fee shall be credited to the state motor vehicle fund.

11 Section 2. That § 32-12-16 be amended to read as follows:

12 32-12-16. The fee for an original driver license or a renewal of a driver license is ~~eight~~
13 twenty dollars. The fee for a duplicate license, a name change, or an address change is ~~six~~ ten
14 dollars. The fee shall be credited to the state motor vehicle fund.

15 Five dollars of every fee for an original or renewal license collected pursuant to this section



1 shall be used to administer the Division of Highway Patrol.

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

3 32-12A-15. The fee for a commercial driver license is ~~fifteen~~ twenty-five dollars. ~~If~~
4 ~~knowledge and skill testing is administered for a commercial driver license, the fee is~~
5 ~~twenty-five dollars.~~ For each commercial driver license endorsement knowledge test
6 administered, the fee is ~~five~~ ten dollars. The fee for a duplicate license, a name change, or an
7 address change is ~~six~~ ten dollars. The fee shall be credited to the state motor vehicle fund.

8 Section 4. That § 32-12-47.1 be amended to read as follows:

9 32-12-47.1. Any person whose license or privilege to drive a motor vehicle on public
10 highways has been revoked, suspended, or disqualified may not have the license or privilege
11 renewed or restored unless the period of revocation, suspension, or disqualification has expired.
12 The period of revocation, suspension, or disqualification shall begin on the date the revoked,
13 suspended, or disqualified license is received by the Department of Public Safety or the court,
14 or on the date the suspension order is effective for failure to comply with a citation. At the
15 expiration of the period of revocation, suspension, or disqualification, a person may make
16 application for license reinstatement as provided by law and shall pay a license fee of fifty
17 dollars plus application fees pursuant to § 32-12-16; a license fee of seventy-five dollars plus
18 application fees pursuant to § 32-12-16 if revocation of the license was a result of a conviction
19 for a violation of § 32-23-2; a license fee of one hundred dollars plus application fees pursuant
20 to § 32-12-16 if revocation of the license was a result of a conviction for a violation of § 32-33-
21 18, or a second or subsequent conviction for a violation of § 32-24-1 within a period of one
22 year; a license fee of one hundred twenty-five dollars plus application fees pursuant to § 32-12-
23 16 if revocation of the license was a result of a conviction for a violation of § 32-23-3; a license
24 fee of one hundred seventy-five dollars plus application fees pursuant to § 32-12-16 if

1 revocation of the license was a result of a conviction for a violation of § 32-23-4, 32-23-4.6, or
2 32-23-4.7; or a license fee of two hundred dollars plus application fees pursuant to § 32-12-16
3 if revocation of the license was the result of a conviction for a violation of § 22-16-41 or 22-18-
4 36. A person making application following a revocation shall fulfill all knowledge examination
5 requirements of a new applicant. A person who had a restricted minor's permit, motorcycle
6 restricted minor's permit, instruction permit, or motorcycle instruction permit, or privilege to
7 apply for a permit or license suspended pursuant to § 32-12-15 need not pay the fee prior to
8 reinstatement of the license unless the suspension is for a conviction of a moving traffic offense
9 assessed six or more points by § 32-12-49.1.

10 Section 5. That § 32-12-48 be amended to read as follows:

11 32-12-48. If a defendant is convicted under § 32-23-2 ~~or~~, 32-23-3, 32-23-4, 32-23-4.6, or
12 32-23-4.7, the period of revocation shall commence on the date the driver license was
13 surrendered to and received by the Department of Public Safety. However, the surrender to the
14 court at the time of conviction is considered a surrender to the department. At the conclusion
15 of the period of revocation ordered by the court and if future proof is filed with the Department
16 of Public Safety as required by chapter 32-35, the defendant may submit an application for a
17 driver license, accompanied by a fee of ~~fifty~~ seventy-five dollars if revocation of the license
18 for a conviction under § 32-23-2, one hundred twenty-five dollars if revocation of the license
19 was for a conviction under § 32-23-3, or one hundred seventy-five dollars if revocation of the
20 license was for a conviction under § 32-23-4, 32-23-4.6, or 32-23-4.7. The department may
21 issue a driver license to the defendant, if, after an investigation of the character, habits and
22 driving ability of the defendant, the department is satisfied it is safe to grant the privilege of
23 driving a motor vehicle to the defendant. A driver license issued under the provisions of this
24 section shall show the restrictions, if any, imposed by the court and the date when the

1 restrictions are to cease.

2 Section 6. That § 32-35-101 be amended to read as follows:

3 32-35-101. The Department of Public Safety shall furnish to any person upon request a
4 certified abstract of the operating record for the last three years of any person subject to the
5 provisions of this chapter. The abstract shall include enumeration of any motor vehicle accidents
6 in which the person has been involved and reference to any convictions of the person for a
7 violation of the motor vehicle laws as reported to the department. No accident may be entered
8 on the driving record of a law enforcement officer, firefighter, or emergency medical technician
9 if the accident resulted from the law enforcement officer's, firefighter's, or emergency medical
10 technician's response to a call of duty as a law enforcement officer, firefighter, or emergency
11 medical technician and the law enforcement officer, firefighter, or emergency medical
12 technician was lawfully engaged in the performance of official duties and was driving an official
13 vehicle. The accident shall be recorded separately. No accident may be entered on the driving
14 record of an operator of emergency snow removal equipment if the accident resulted from the
15 operator's response to an emergency call of duty as an operator of emergency snow removal
16 equipment and the operator was lawfully engaged in the performance of official duties in
17 support of an emergency call of duty by a law enforcement officer, firefighter, or emergency
18 medical technician and was driving official snow removal equipment. The accident shall be
19 recorded separately. The department shall collect ~~four~~ five dollars for each abstract. The fee
20 shall be credited to the state motor vehicle fund. Any governmental entity or subdivision is
21 exempt from this fee.

22 Section 7. That § 32-12A-63 be amended to read as follows:

23 32-12A-63. The department shall furnish to any person upon request a certified abstract of
24 the operating record for the last three years of any person subject to the provisions of chapter

1 32-35. The abstract shall include enumeration of any motor vehicle accident in which the person
2 has been involved and reference to any conviction of the person for a violation of any motor
3 vehicle law as reported to the department. The department shall collect ~~four~~ five dollars for each
4 abstract. The fee shall be credited to the state motor vehicle fund. No governmental entity or
5 subdivision is subject to this fee.

6 The department shall furnish, upon request and a payment of a fee of ~~four~~ five dollars, full
7 information regarding the driver record for the last three years of a person who has been issued
8 a commercial driver license to an employer or to a prospective employer if the person has given
9 written consent to the employer or prospective employer to obtain this information. The
10 department shall furnish this same information to the driver upon the payment of a fee of ~~four~~
11 five dollars. The information shall include any disqualification and any other licensing action
12 for a violation of any state or local law relating to motor vehicle traffic control, other than a
13 parking violation committed in any type of vehicle. The fee shall be credited to the state motor
14 vehicle fund. No governmental entity or subdivision is subject to this fee.

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

400Q0263

HOUSE APPROPRIATIONS ENGROSSED NO. **SB 36** - 3/4/2009

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

1 FOR AN ACT ENTITLED, An Act to revise certain drug registration fees and license fees
2 related to health care facilities.

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

4 Section 1. That § 34-12-6 be amended to read as follows:

5 34-12-6. Any application for a license to operate a health care facility shall be accompanied
6 by a fee. ~~The annual license fee shall be established by the Department of Health through rules~~
7 ~~adopted pursuant to chapter 1-26. The annual license fee established for each licensure category~~
8 ~~of health care facilities shall be based upon a fixed amount not to exceed one hundred dollars~~
9 ~~plus a variable amount based upon the number of beds to be licensed not to exceed three dollars~~
10 ~~per bed, except that the fee per bed established for hospitals qualifying for exemption under~~
11 ~~§ 34-12-16 may not exceed two dollars~~ as follows:

12 (1) Nursing facility:

13 (a) Fifty beds or less, six hundred dollars;

14 (b) Fifty-one to one hundred beds, inclusive, nine hundred dollars;

15 (c) One hundred one to one hundred fifty beds, inclusive, one thousand two



1 hundred dollars;

2 (d) One hundred fifty-one or more beds, one thousand five hundred dollars;

3 (2) Assisted living center:

4 (a) Sixteen beds or less, one hundred fifty dollars;

5 (b) Seventeen to fifty beds, inclusive, three hundred dollars;

6 (c) Fifty-one to one hundred beds, inclusive, four hundred fifty dollars;

7 (d) One hundred one or more beds, six hundred dollars;

8 (3) Hospital:

9 (a) Twenty-five beds or less, one thousand dollars;

10 (b) Twenty-six to fifty beds, inclusive, one thousand five hundred dollars;

11 (c) Fifty-one to one hundred beds, inclusive, two thousand dollars;

12 (d) One hundred one to one hundred fifty beds, inclusive, three thousand dollars;

13 (e) One hundred fifty-one to two hundred beds, inclusive, four thousand dollars;

14 (f) Two hundred one or more beds, five thousand dollars;

15 (4) Ambulatory surgery center, five hundred dollars;

16 (5) Chemical dependency treatment facility:

17 (a) Sixteen beds or less, one hundred fifty dollars;

18 (b) Seventeen to fifty beds, inclusive, three hundred dollars;

19 (c) Fifty-one or more beds, four hundred fifty dollars;

20 (6) Inpatient and residential hospice, two hundred dollars.

21 No such fee may be refunded. All fees received by the State Department of Health under the
22 provisions of this chapter shall be paid into the general fund.

23 Section 2. That § 34-12-7 be amended to read as follows:

24 34-12-7. The State Department of Health may issue licenses to operate a health care facility

1 or related institutions as defined in § 34-12-1.1 which, after application and inspection, are
2 found to comply with the provisions of this chapter, and the rules adopted by the State
3 Department of Health. Provision may be made for annual or biennial licenses, prorated license
4 fees, and multiple licenses for health care facilities providing different levels of care and
5 services to patients. To implement this section, the State Department of Health may promulgate
6 rules pursuant to chapter 1-26.

7 Section 3. That § 34-12-10 be repealed.

8 ~~34-12-10. Any license issued under this chapter expires on the next succeeding June~~
9 ~~thirtieth, unless otherwise provided by this chapter, and shall be renewed annually subject to the~~
10 ~~provisions of §§ 34-12-5 and 34-12-7 and upon payment of a fee as required by § 34-12-6.~~

11 Section 4. That § 34-20B-41 be amended to read as follows:

12 34-20B-41. The ~~Department of Health~~ department may promulgate rules pursuant to chapter
13 1-26 relating to exclusions from uniform drug articles pursuant to subdivision 34-20B-2(1); the
14 definition of precursors; exceptions from Schedule III of stimulants, depressants, and anabolic
15 steroid-estrogen combinations in medicinal preparations; the registration of manufacturers,
16 distributors, and dispensers; waivers of registration; the suspending, revoking, surrendering,
17 transferring, and reinstating of registration; inventories and records of controlled substances
18 establishing minimum standards for prescribing and dispensing practices, labeling and security
19 requirements and the issuance of prescriptions as provided by this chapter and chapter 22-42;
20 and the inspection of registered premises. The department may charge reasonable fees relating
21 to the registration and control of the manufacture, distribution, and dispensing of controlled
22 drugs and substances within this state. No fee may exceed one hundred fifty dollars.

23 Section 5. That § 34-21-18 be amended to read as follows:

24 34-21-18. The ~~agency~~ Department of Health may require licensing of all sources of ionizing

1 radiation. The annual license shall be accompanied by an annual license fee. The ~~Department~~
2 ~~of Health shall, by rules promulgated pursuant to chapter 1-26, establish the annual license fee~~
3 ~~which may not exceed one hundred dollars~~ shall be as follows:

- 4 (1) One diagnostic X ray system, one hundred dollars;
- 5 (2) Two to five diagnostic X ray systems, inclusive, one hundred fifty dollars;
- 6 (3) Six to ten diagnostic X ray systems, inclusive, two hundred dollars;
- 7 (4) Eleven to twenty diagnostic X ray systems, inclusive, two hundred fifty dollars; and
- 8 (5) Twenty-one or more diagnostic X ray systems, three hundred dollars.

9 For the purposes of this section, diagnostic X ray system means an X ray system designed
10 for irradiation of any part of the human or animal body for the purpose of diagnosis or
11 visualization.

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

400Q0206

HOUSE JUDICIARY ENGROSSED NO. **SB 37** - 3/4/2009

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

1 FOR AN ACT ENTITLED, An Act to establish certain immunity for volunteers of the statewide
2 emergency registry of volunteers for South Dakota program.

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

4 Section 1. Terms used in this Act mean:

- 5 (1) "Statewide Emergency Registry of Volunteers for South Dakota (SERV SD)," the
6 state's version of the Emergency System for Advance Registration of Health
7 Professions Volunteers authorized by Public Law 107-188, known as the Public
8 Health Security and Bioterrorism Preparedness and Response Act of 2002;
- 9 (2) "Volunteer," an individual who, without the expectation of receiving compensation
10 for services, responds to and acts in accordance with a call to service under the SERV
11 SD program in response to a declared public health emergency as provided for in
12 §§ 34-22-41 to 34-22-44, inclusive.

13 Section 2. Except to the extent that the volunteer is covered by a policy of insurance, any
14 volunteer, as defined in section 1 of this Act, is immune from civil liability in any action
15 brought in any court in this state on the basis of any act or omission resulting in damage or



1 injury if:

2 (1) The volunteer was acting in good faith and within the scope of the volunteer's official
3 functions; and

4 (2) The damage or injury was not caused by gross negligence or willful and wanton
5 misconduct by the volunteer.

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

933Q0345

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

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

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

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

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



1 Research Council by November 1, 2009.

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

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

4 effect from and after its passage and approval.

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

285Q0288

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

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

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

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

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

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

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

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



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

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

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

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

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

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

912Q0469

SENATE STATE AFFAIRS

ENGROSSED NO. **SB 100** - 2/20/2009

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

Introduced by: Senators Knudson, Gray, Heidepriem, Hunhoff (Jean), Maher, and Miles and Representatives Rausch, Cutler, Dennert, Engels, Faehn, Hunhoff (Bernie), Kirkeby, Krebs, Lust, Noem, Putnam, Steele, Tidemann, and Turbiville

1 FOR AN ACT ENTITLED, An Act to revise the method of sale of certain tobacco products.

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

3 Section 1. That § 34-46-1 be amended to read as follows:

4 34-46-1. Terms used in this chapter mean:

5 (1) "Proof of age," a driver's license, nondriver identification card, or other generally
6 accepted means of identification that contains a picture of the individual and appears
7 on its face to be valid;

8 (2) "Sample," tobacco products distributed to members of the general public at no cost
9 for purposes of promoting the product;

10 (3) "Sampling," the distribution of samples to members of the general public in a public
11 place;

12 (4) "Self-service display," a display that contains cigarettes or smokeless tobacco, or
13 both, and is located in an area openly accessible to the merchant's consumers, and



1 from which such consumers can readily access cigarettes or smokeless tobacco, or
2 both, without the assistance of the merchant or an employee or agent of the merchant.

3 A display case that holds tobacco products behind locked doors does not constitute
4 a self-service display;

5 (5) "Tobacco product," any item made of tobacco intended for human consumption,
6 including cigarettes, cigars, pipe tobacco, and smokeless tobacco;

7 (6) "Tobacco speciality store," a business that derives at least seventy-five percent of its
8 revenue from the sale of tobacco products.

9 Section 2. That § 34-46-2 be amended to read as follows:

10 34-46-2. The following actions are unlawful:

11 (1) To knowingly sell or distribute a tobacco product to a person under the age of
12 eighteen;

13 (2) To purchase or attempt to purchase, to receive or attempt to receive, to possess, or
14 to consume a tobacco product if a person is under the age of eighteen;

15 (3) To purchase a tobacco product on behalf of, or to give a tobacco product to, any
16 person under the age of eighteen;

17 (4) To sell cigarettes other than in an unopened package originating with the
18 manufacturer and depicting the warning labels required by federal law;

19 (5) To sell tobacco products through a vending machine located in a place other than the
20 following:

21 (a) A factory, business, office, or other place not open to the general public;

22 (b) A place that is open to the public but to which persons under the age of
23 eighteen are denied access; ~~or~~

24 (c) An establishment licensed under chapter 35-4 to sell alcoholic beverages for

1 consumption on the premises where sold;

2 (6) To sell cigarettes or smokeless tobacco, or both, through a self-service display other
3 than a display that is:

4 (a) A vending machine permitted under subdivision (5) of this section; or

5 (b) Located in a tobacco speciality store; or

6 (7) To distribute tobacco product samples in or on a public street, sidewalk, or park that
7 is within five hundred feet of a playground, school, or other facility when the facility
8 is being used primarily by persons under the age of eighteen.

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

956Q0127

HOUSE EDUCATION ENGROSSED NO. **SB 106** 3/2/2009

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

Introduced by: Senators Knudson, Abdallah, Adelstein, Bartling, Dempster, Garnos, Gillespie, Gray, Hansen (Tom), Hanson (Gary), Heidepriem, Jerstad, Maher, Merchant, Miles, Olson (Russell), Peterson, Tieszen, and Vehle and Representatives Cutler, Curd, Dreyer, Frerichs, Hunhoff (Bernie), Lucas, Peters, Rave, Schlekeway, Street, Thompson, and Turbiville

- 1 FOR AN ACT ENTITLED, An Act to enhance education in South Dakota.
- 2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:
- 3 Section 1. Education in South Dakota is hereby enhanced.



State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

966Q0658

SENATE TAXATION ENGROSSED NO. **SB 149** 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: Senators Adelstein, Abdallah, Jerstad, Nelson, and Tieszen and
Representatives McLaughlin, Lederman, and Sly

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the general fund
2 levies of school districts.

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

4 Section 1. That § 13-13-72.1 be amended to read as follows:

5 13-13-72.1. Any adjustments in the levies specified in § 10-12-42 made pursuant to §§ 13-
6 13-71 and 13-13-72 shall be based on maintaining the relationship between statewide local
7 effort as a percentage of statewide local need in the fiscal year succeeding the fiscal year in
8 which the adjustment is made. Any adjustment to the levy for agricultural property shall be
9 based upon the change in the statewide agricultural taxable valuation and the reclassification
10 of agricultural property to another property classification. Any adjustment to the levies for
11 nonagricultural property and owner-occupied single-family dwellings shall be based upon the
12 change in the statewide nonagricultural property and owner-occupied single-family dwellings
13 taxable valuations. However, if any new project with a total taxable valuation of one hundred
14 fifty million dollars or more is constructed, the levies shall be proportionately decreased for



1 agricultural property, nonagricultural property, and owner-occupied single-family dwellings. In
2 addition to the adjustments in the levies provided by this section, the levies shall also be
3 annually adjusted as necessary to reduce the portion of local need paid by local effort by an
4 amount equal to nine million dollars from those funds transferred into the property tax reduction
5 fund pursuant to § 10-50-52 subsequent to July 1, 2007. In addition to the adjustments in the
6 levies provided by this section, the levies for nonagricultural property and owner-occupied
7 single-family dwellings shall also be adjusted as necessary to account for the additional increase
8 in the total assessed value for nonagricultural property and owner-occupied single-family
9 dwellings pursuant to the phasing out and repeal of the provisions provided in § 10-6-74.

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

842Q0647

SENATE TRANSPORTATION ENGROSSED NO. **SB 151** - 2/11/2009

Introduced by: Senators Adelstein, Bradford, Brown, Dempster, Fryslie, Haverly, Miles, Nelson, and Tieszen and Representatives Van Gerpen, Dreyer, Lederman, Nygaard, and Pitts

1 FOR AN ACT ENTITLED, An Act to provide for a special motor vehicle license plate for
2 parents of members of the United States Armed Forces who died while in service of this
3 country.

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

5 Section 1. That chapter 32-5 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 Any resident owner of a motor vehicle who is a parent of a member of the United States
8 Armed Forces who died while in service to this country or who died as a result of the service,
9 as certified by the Department of Military and Veterans Affairs, may apply to the secretary to
10 receive a maximum of two sets of special license plates which honor the parent as a gold star
11 parent. Each application shall be on a form prescribed by the secretary and shall include the
12 certification from the Department of Military and Veterans Affairs. The special plates shall be
13 numbered and contain a symbol to be determined by the secretary indicating that the owner is
14 a gold star parent. The special plates shall be displayed as set forth in § 32-5-98. The special



1 license plate shall be reflectorized and validated each year with a sticker in the same manner as
2 a noncommercial license plate. In addition to the noncommercial license plate fees, an
3 additional fee of ten dollars shall be charged for the special license plates. However, no
4 additional fee may be charged for the renewal stickers placed on the special license plates. If it
5 is determined that the owner does not qualify for the special plates, the plates shall be
6 surrendered to the county treasurer of the applicant's residence. The treasurer shall notify the
7 secretary who shall make the necessary changes in the registration file. The special plates may
8 be retained by the owner's family upon the owner's death, but may not be displayed on the
9 vehicle beyond the expiration of the plates or renewal stickers. Failure to surrender the special
10 license plates as required by this section is a Class 2 misdemeanor.

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

175Q0312

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

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

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

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

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

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

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

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



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

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

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

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

571Q0374

SENATE ENGROSSED NO. **SB 160** - 2/24/2009

Introduced by: Senators Hansen (Tom), Dempster, Jerstad, Knudson, Merchant, and Schmidt
and Representatives Hunt, Feinstein, Hamiel, Krebs, Lederman, Schlekeway,
and Thompson

1 FOR AN ACT ENTITLED, An Act to revise the grounds for which a license of an athletic
2 trainer may be revoked, suspended, or canceled.

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

4 Section 1. That § 36-29-18 be amended to read as follows:

5 36-29-18. The license of an athletic trainer may be revoked, suspended, or canceled upon
6 any one of these grounds:

7 (1) The licensee is guilty of fraud in the practice of athletic training or fraud or deceit in
8 ~~his~~ the licensee's admission to the practice of athletic training; ~~or~~

9 (2) The licensee has been convicted of a felony during the past five years. The conviction
10 of a felony is the conviction of any offense, which if committed within the State of
11 South Dakota would constitute a felony under its laws; ~~or~~

12 (3) The licensee is engaged in the practice of athletic training under a false or assumed
13 name and has not registered that name pursuant to chapter 37-11, or is impersonating
14 another practitioner of a like or different name; ~~or~~



- 1 (4) The licensee is addicted to the habitual use of intoxicating liquors, narcotics, or
2 stimulants to the extent as to incapacitate ~~him~~ the licensee from the performance of
3 the licensee's professional duties; or
- 4 (5) The physical or mental condition of the licensee is determined by a medical examiner
5 to be such as to jeopardize or endanger those who seek relief from the licensee. A
6 majority of the Board of Medical and Osteopathic Examiners may demand an
7 examination of the licensee by a competent medical examiner selected by the board
8 at the board's expense. If the licensee fails to submit to the examination, this ~~shall~~
9 ~~constitute~~ constitutes immediate grounds for suspension of the licensee's license; ~~or~~
- 10 (6) ~~Obtaining or attempting~~ The licensee obtains or attempts to obtain a license,
11 certificate, or renewal thereof by bribery or fraudulent representation; ~~or~~
- 12 (7) ~~Direct or indirect~~ The licensee receives direct compensation from individuals or third
13 party payees for services rendered; ~~or. However, a licensee may receive~~
14 compensation from any entity sponsoring an athletic event for athletic training
15 services provided to athletes participating in the event. For the purposes of this
16 subdivision, direct compensation is compensation other than that received by the
17 employing institution or athletic organization;
- 18 (8) ~~Making~~ The licensee makes a false statement in connection with any application
19 under this chapter; ~~or~~
- 20 (9) ~~Making~~ The licensee makes a false statement on any form ~~promulgated~~ prescribed
21 by the board ~~in accordance with~~ pursuant to this chapter or the rules ~~and regulations~~
22 ~~adopted~~ promulgated by the board pursuant to this chapter; ~~or~~
- 23 (10) The licensee conducts continued treatment and rehabilitation procedures on
24 individuals other than those associated with the employing institution or athletic

1 organization; or

2 (11) The licensee has violated any provision of this chapter or the rules ~~and regulations~~

3 promulgated ~~hereunder~~ pursuant to this chapter.

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

655Q0704

HOUSE EDUCATION ENGROSSED NO. **SB 165** 3/4/2009

Introduced by: Senators Adelstein, Gray, and Knudson and Representatives Feinstein, Jensen, and Kirkeby

1 FOR AN ACT ENTITLED, An Act to provide for the authorization of certain private, nonprofit
2 benevolent organizations to assist in funding certain school curricula, activities, and
3 programs.

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

5 Section 1. The governing board of any school district organized pursuant to chapter 13-5
6 may authorize one or more private, nonprofit benevolent organizations to, independently of the
7 control of the school district, accept and solicit donations, gifts, grants, or other private financial
8 resources for the ultimate benefit of the educational or interscholastic activities of the school
9 district. Funds collected pursuant to this Act shall be offered, at an appropriate time, to the
10 governing board of the school. If accepted, such funds shall be used for the expansion and
11 enhancement of academic curricula, for the support of interscholastic activities, for the initiation
12 or support of musical, forensic, civic, technologic, or similar extracurricular instruction or
13 programs, for special trips or activities supporting core school activities, or other programs or
14 activities of substantial benefit to the educational environment of the school district. None of



1 the funds may be used for capital acquisition, debt retirement, or ordinary expenditures or
2 expenses.

3 Section 2. Any private, nonprofit benevolent organization authorized pursuant to section 1
4 of this Act may propose, advocate, or suggest to the governing board of the school district that
5 the funds proffered by the organization be utilized with regard to various curricula, activities,
6 or other programs. However, the governing board is not obligated to accept or expend any funds,
7 nor is the organization obligated to provide any funds, unless both are mutually agreed as to
8 terms and purposes.

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

645Q0737

HOUSE LOCAL GOVERNMENT ENGROSSED NO. **SB 184** - 3/5/2009

Introduced by: Senators Hanson (Gary), Fryslie, Garnos, Maher, Peterson, and Schmidt and
Representatives Vanneman, Brunner, Hunhoff (Bernie), Jensen, Juhnke,
Lucas, and Turbiville

1 FOR AN ACT ENTITLED, An Act to require the terms of certain easements or options to
2 accommodate other easements for wind or essential services.

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

4 Section 1. That chapter 43-13 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 The holder of any wind easement, wind lease, or easement for essential services shall
7 accommodate the reasonable development of another holder of any wind easement, wind lease,
8 or easement for essential services except for competing developers of wind energy projects. For
9 purposes of this section, the term, essential services, includes any electric transmission and
10 distribution lines and associated facilities, telecommunications facilities, and rural water
11 systems.

