



# State of South Dakota

EIGHTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2010

400R0370

## HOUSE APPROPRIATIONS ENGROSSED NO. **HB 1025** - 2/12/2010

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

1 FOR AN ACT ENTITLED, An Act to authorize the Board of Regents to construct a motor pool  
2 building at South Dakota State University and to make an appropriation therefor.

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

4 Section 1. The Board of Regents may contract for the construction, completion, furnishing,  
5 equipping, and maintaining of, including heating, air conditioning, plumbing, water, sewer,  
6 electric facilities, sidewalks, parking, landscaping, architectural and engineering services, and  
7 such other services or actions as may be required to construct, a motor pool building, not to  
8 exceed two thousand gross square feet, at an estimated cost of two hundred thirty-four thousand  
9 three hundred dollars on the campus of South Dakota State University in Brookings, South  
10 Dakota.

11 Section 2. There is hereby appropriated from other fund expenditure authority the sum of  
12 two hundred thirty-four thousand three hundred dollars (\$234,300), or so much thereof as may  
13 be necessary, to the Board of Regents for the total project cost authorized by this Act, payable  
14 from sponsored program indirect cost receipts, from service center cost recovery, and from  
15 prepaid rental in the amount of fifty thousand dollars from the Bureau of Administration.



1 Section 3. Expenditure authority may be increased based on the receipt of grants or  
2 donations received pursuant to this Act. However, no adjustment to any cost estimate may  
3 exceed one hundred twenty-five percent of the authorized expenditure authority stated in section  
4 2 of this Act. No increase in gross square footage authorized by section 1 of this Act may exceed  
5 ten percent. Any increase in gross square footage may only be made to accommodate design  
6 changes needed to comply with building code requirements and to address unforeseeable  
7 structural, subsoil, or environmental conditions.

8 Section 4. The design and construction of the facility authorized in this Act shall be under  
9 the general supervision of the Bureau of Administration as provided in chapter 5-14. The  
10 commissioner of the Bureau of Administration and the executive director of the Board of  
11 Regents shall approve vouchers and the state auditor shall draw warrants to pay expenditures  
12 authorized by this Act.

13 Section 5. For the purposes of this Act, the term, gross square footage, means the sum of all  
14 areas on all floors of a building included within the outside faces of the building's exterior walls,  
15 including floor penetration areas, however insignificant, for circulation and shaft areas that  
16 connect one floor to another as computed by physically measuring or scaling measurements  
17 from the outside faces of exterior walls, disregarding cornices, pilaster, buttresses, etc., which  
18 extend beyond the wall faces. The term includes excavated basement area; mezzanines and  
19 attics; garages; multiple floor parking structures; enclosed porches, inner or outer balconies  
20 whether walled or not, if the balconies are utilized for operational functions; and corridors  
21 whether walled or not, if the corridors are within the outside face lines of the building, to the  
22 extent of the roof drip line and the footprints of stairways, elevator shafts, and ducts on each  
23 floor through which the corridors pass. The term does not include open areas such as unenclosed  
24 parking lots, playing fields, courts, and light wells, clear span areas not exceeding three feet in

- 1 height, or portions of upper floors eliminated by rooms or lobbies that rise above single-floor
- 2 height.

# State of South Dakota

EIGHTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2010

400R0372

HOUSE ENGROSSED NO. **HB 1026** - 2/17/2010

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

1 FOR AN ACT ENTITLED, An Act to authorize the Board of Regents to construct phase II of  
2 the Electrical Engineering and Computer Science Building on the campus of South Dakota  
3 State University, to accept donations for such purpose, to acquire land incidental thereto,  
4 and to make appropriations therefor.

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

6 Section 1. The Board of Regents may contract for the construction, completion, furnishing,  
7 equipping, and maintaining of, including heating, air conditioning, plumbing, water, sewer,  
8 electric facilities, sidewalks, parking, landscaping, architectural and engineering services, and  
9 such other services or actions as may be required to construct, phase II of the Electrical  
10 Engineering and Computer Science Building, not to exceed twenty-nine thousand gross square  
11 feet, on the campus of South Dakota State University in Brookings, South Dakota.

12 Section 2. There is hereby appropriated from other fund expenditure authority the sum of  
13 five million one hundred twenty-five thousand dollars (\$5,125,000), for the total project cost  
14 authorized by this Act.

15 Of that sum:



1 (1) Four million four hundred thousand dollars (\$4,400,000) shall be payable from funds  
2 donated for the purposes of this Act, and are appropriated for project costs other than  
3 those authorized in subdivision (2) of this section or section 6 of this Act;

4 (2) Four hundred fifty thousand dollars (\$450,000) in other funds arising from sponsored  
5 program indirect receipts are appropriated to construct and to equip a photovoltaic  
6 laboratory within the facility; and

7 (3) Two hundred seventy-five thousand dollars (\$275,000) from the grant and contract  
8 indirect recovery, plant, and royalty funds, are appropriated for the purpose of  
9 purchase of the property described in section 6 of this Act.

10 Section 3. Expenditure authority may be increased based on the receipt of grants or  
11 donations received pursuant to this Act. However, no adjustment to any cost estimate may  
12 exceed one hundred twenty-five percent of the authorized expenditure authority stated in section  
13 2 of this Act. No increase in gross square footage authorized by section 1 of this Act may exceed  
14 ten percent. Any increase in gross square footage may only be made to accommodate design  
15 changes needed to comply with building code requirements and to address unforeseeable  
16 structural, subsoil, or environmental conditions.

17 Section 4. The design and construction of the facility authorized in this Act shall be under  
18 the general supervision of the Bureau of Administration as provided in chapter 5-14. The  
19 commissioner of the Bureau of Administration and the executive director of the Board of  
20 Regents shall approve vouchers and the state auditor shall draw warrants to pay expenditures  
21 authorized by this Act. No contract for construction may be issued until the donated funds  
22 referred to in section 2 of this Act have been accumulated sufficient to pay for the construction,  
23 completion, furnishing, equipping, including heating, air conditioning, plumbing, water, sewer,  
24 electric facilities, sidewalks, parking, landscaping, and architectural and engineering services,

1 required to construct the facility.

2 Section 5. For the purposes of this Act, the term, gross square footage, means the sum of all  
3 areas on all floors of a building included within the outside faces of the building's exterior walls,  
4 including floor penetration areas, however insignificant, for circulation and shaft areas that  
5 connect one floor to another as computed by physically measuring or scaling measurements  
6 from the outside faces of exterior walls, disregarding cornices, pilaster, buttresses, etc., which  
7 extend beyond the wall faces. The term includes excavated basement area; mezzanines and  
8 attics; garages; multiple floor parking structures; enclosed porches, inner or outer balconies  
9 whether walled or not, if the balconies are utilized for operational functions; and corridors  
10 whether walled or not, if the corridors are within the outside face lines of the building, to the  
11 extent of the roof drip line and the footprints of stairways, elevator shafts, and ducts on each  
12 floor through which the corridors pass. The term does not include open areas such as unenclosed  
13 parking lots, playing fields, courts, and light wells, clear span areas not exceeding three feet in  
14 height, or portions of upper floors eliminated by rooms or lobbies that rise above single-floor  
15 height.

16 Section 6. In order to secure regular dimensions for the site of the construction authorized  
17 in this Act, the Board of Regents may purchase improved real property adjacent to the campus  
18 of South Dakota State University at a cost not to exceed two hundred seventy-five thousand  
19 dollars. The parcel of real property is described as follows:

20 W 85' of Lots 1, 2 and 3, Block 1, Wheaton's addition, City of Brookings, Brookings  
21 County, South Dakota.

22 Section 7. The Board of Regents may sell, dismantle, or otherwise dispose of any  
23 improvements on the property described in section 6 of this Act.

24 Section 8. The Board of Regents shall file its plan to provide for the operation and the

- 1 maintenance and repair expenses related to the project authorized in this Act with the Executive
- 2 Board of the Legislative Research Council no later than November 1, 2010.

# State of South Dakota

EIGHTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2010

400R0373

## HOUSE APPROPRIATIONS ENGROSSED NO. **HB 1027** - 1/28/2010

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

1 FOR AN ACT ENTITLED, An Act to authorize the Board of Regents to construct a visitor  
2 center on the grounds of McCrory Gardens on the campus of South Dakota State University,  
3 to accept donations for such purpose, to make an appropriation therefor, and to declare an  
4 emergency.

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

6 Section 1. The Board of Regents may contract for the construction, completion, furnishing,  
7 equipping, and maintaining of, including heating, air conditioning, plumbing, water, sewer,  
8 electric facilities, sidewalks, parking, landscaping, architectural and engineering services, and  
9 such other services or actions as may be required to construct a visitor center, not to exceed ten  
10 thousand gross square feet, on the grounds of McCrory Gardens on the campus of South Dakota  
11 State University, in Brookings, South Dakota.

12 Section 2. There is hereby appropriated from other fund expenditure authority the sum of  
13 four million dollars (\$4,000,000), or so much thereof as may be necessary, to the Board of  
14 Regents, payable from funds donated for the purposes of this Act, for the total project cost  
15 authorized by this Act.



1 Section 3. Expenditure authority may be increased based on the receipt of grants or  
2 donations received pursuant to this Act. However, no adjustment to any cost estimate may  
3 exceed one hundred twenty-five percent of the authorized expenditure authority stated in section  
4 2 of this Act. No increase in gross square footage authorized by section 1 of this Act may exceed  
5 ten percent. Any increase in gross square footage may only be made to accommodate design  
6 changes needed to comply with building code requirements and to address unforeseeable  
7 structural, subsoil, or environmental conditions.

8 Section 4. The design and construction of the facility authorized in this Act shall be under  
9 the general supervision of the Bureau of Administration as provided in chapter 5-14. The  
10 commissioner of the Bureau of Administration and the executive director of the Board of  
11 Regents shall approve vouchers and the state auditor shall draw warrants to pay expenditures  
12 authorized by this Act. No contract for construction may be issued until the donated funds  
13 referred to in section 2 of this Act have been accumulated sufficient to pay for the construction,  
14 completion, furnishing, equipping, including heating, air conditioning, plumbing, water, sewer,  
15 electric facilities, sidewalks, parking, landscaping, and architectural and engineering services,  
16 required to construct the facility.

17 Section 5. For the purposes of this Act, the term, gross square footage, means the sum of all  
18 areas on all floors of a building included within the outside faces of the building's exterior walls,  
19 including floor penetration areas, however insignificant, for circulation and shaft areas that  
20 connect one floor to another as computed by physically measuring or scaling measurements  
21 from the outside faces of exterior walls, disregarding cornices, pilaster, buttresses, etc., which  
22 extend beyond the wall faces. The term includes excavated basement area; mezzanines,  
23 penthouses, and attics; garages; multiple floor parking structures; enclosed porches, inner or  
24 outer balconies whether walled or not, if the balconies are utilized for operational functions; and

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

7 Section 6. Whereas, this Act is necessary for the support of the state government and its  
8 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in  
9 full force and effect from and after its passage and approval.

# State of South Dakota

EIGHTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2010

400R0340

HOUSE ENGROSSED NO. **HB 1042** - 2/11/2010

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

1 FOR AN ACT ENTITLED, An Act to increase certain billboard permit fees.

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

3 Section 1. That § 31-29-71.1 be amended to read as follows:

4 31-29-71.1. Any application for the permit required by § 31-29-71 shall be accompanied by  
5 the fee specified by the following schedule:

6 (1) If the advertising area does not exceed ~~fifty~~ one hundred square feet, the fee is ~~eight~~  
7 fifteen dollars;

8 (2) If the area exceeds ~~fifty~~ one hundred square feet but does not exceed three hundred  
9 square feet, the fee is ~~twelve~~ twenty dollars;

10 (3) If the area exceeds three hundred square feet but does not exceed five hundred square  
11 feet, the fee is ~~sixteen~~ thirty dollars;

12 (4) If the area exceeds five hundred square feet but does not exceed ~~six~~ seven hundred  
13 square feet, the fee is ~~twenty~~ forty dollars;

14 (5) If the area exceeds seven hundred square feet but does not exceed nine hundred  
15 square feet, the fee is fifty dollars;



1       (6)    If the area exceeds nine hundred square feet but does not exceed one thousand one  
2            hundred square feet, the fee is seventy-five dollars;

3       (7)    If the area exceeds ~~six~~ one thousand one hundred square feet, the fee is ~~thirty-two~~ one  
4            hundred dollars.

5        A sign less than sixty-five square feet owned and maintained by a church is exempt from  
6        the fees under this section.

# State of South Dakota

EIGHTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2010

400R0278

## HOUSE APPROPRIATIONS ENGROSSED NO. **HB 1048** - 1/28/2010

Introduced by: The Committee on Appropriations at the request of the Department of  
Military and Veterans Affairs

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to a previous  
2 appropriation for National Guard armory construction.

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

4 Section 1. That section 7 of chapter 177 of the 2006 Session Laws be amended to read as  
5 follows:

6 Section 7. Any amounts appropriated in this Act not lawfully expended or obligated by  
7 June 30, 2014, shall revert in accordance with ~~§ 4-8-21~~ the procedures prescribed in chapter 4-8.



# State of South Dakota

EIGHTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2010

400R0384

## HOUSE APPROPRIATIONS ENGROSSED NO. **HB 1052** - 1/28/2010

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

1 FOR AN ACT ENTITLED, An Act to revise the definition of full-time equivalent to exclude  
2 students employed by public postsecondary institutions.

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

4 Section 1. That subdivision (12) of § 2-14-2 be amended to read as follows:

5 (12) "Full-time equivalent" or "FTE," a number which designates staffing level where one  
6 full-time equivalent position is equal to the number of days, Monday through Friday,  
7 in a fiscal year, multiplied by eight hours per day. It excludes: paid overtime hours;  
8 hours paid to an employee assigned to a light duty position as approved by the  
9 commissioner of the Bureau of Personnel due to a temporary partial disability as  
10 defined in subdivision 62-1-1(8); hours paid for accumulated annual leave and sick  
11 leave upon employee termination; hours paid to patient employees of the institutions  
12 under the control of the Department of Human Services and the Department of  
13 Military and Veterans Affairs; hours paid to work-study students enrolled in  
14 postsecondary educational institutions or postsecondary students employed pursuant



1 to chapter 3-6B; hours paid to students enrolled in and employed by postsecondary  
2 educational institutions; and hours paid to members of boards and commissions  
3 pursuant to § 4-7-10.4. For purposes of salary computation a nine month or more per  
4 year full-time teaching or research faculty person, or the equivalent thereof, at the  
5 institutions under the jurisdiction of the Board of Regents shall be considered one  
6 full-time equivalent;

7

# State of South Dakota

EIGHTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2010

400R0257

## HOUSE APPROPRIATIONS ENGROSSED NO. **HB 1056** - 1/28/2010

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

1 FOR AN ACT ENTITLED, An Act to make an appropriation from the coordinated natural  
2 resources conservation fund to the State Conservation Commission and to declare an  
3 emergency.

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

5 Section 1. There is hereby appropriated from the coordinated natural resources conservation  
6 fund the sum of one million dollars (\$1,000,000), or so much thereof as may be necessary, in  
7 accordance with subdivision 10-47B-149(4), to the State Conservation Commission.

8 Section 2. The State Conservation Commission shall approve vouchers and the state auditor  
9 shall draw warrants to pay expenditures authorized by this Act.

10 Section 3. Any amounts appropriated in this Act not lawfully expended or obligated shall  
11 revert in accordance with the procedures prescribed in chapter 4-8.

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



# State of South Dakota

EIGHTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2010

491R0472

## HOUSE STATE AFFAIRS ENGROSSED NO. **HB 1088** - 1/27/2010

Introduced by: Representatives Gosch, Brunner, Dennert, Engels, Faehn, Feickert, Hunhoff (Bernie), Hunt, Kirschman, Kopp, Lucas, Lust, Noem, Rausch, Rave, Sly, Steele, and Turbiville and Senators Abdallah, Ahlers, Hanson (Gary), Heidepriem, Hundstad, Hunhoff (Jean), Kloucek, Knudson, Miles, Nelson, Novstrup (Al), Peterson, Rhoden, and Turbak Berry

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the rights of certain  
2 new vehicle dealers and to declare an emergency.

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

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

5 32-6B-1. Terms as used in this chapter mean:

- 6 (1) "Administrator," the administrator of the dealer licensing and inspection program of  
7 the Department of Revenue and Regulation;
- 8 (2) "Auctioneer," a person who presides over a public auction where following an initial  
9 starting price, bids are taken from two or more people until a final bid or price is  
10 established for a motor vehicle;
- 11 (2A) "Authorized emergency vehicle," any vehicle of a fire department and any ambulance  
12 and emergency vehicle of a municipal department or public service corporation that  
13 are designated or authorized by the Department of Public Safety;



- 1 (3) "Broker," a person who, for a fee, commission, or other valuable consideration,  
2 arranges or offers to arrange a transaction involving the sale or exchange of vehicles,  
3 and who is not:
- 4 (a) A dealer or a bona fide agent or employee of a dealer;
  - 5 (b) A representative or a bona fide agent or employee of a manufacturer; or
  - 6 (c) At any point in the transaction the bona fide owner of the vehicle involved in  
7 the transactions;
- 8 (4) "Community," the franchisee's area of responsibility as stipulated in the franchise. A  
9 community has a minimum radius of ten miles around an existing dealership;
- 10 (5) "Converter," a person who modifies or installs on previously assembled chassis  
11 special bodies or equipment which, when completed, form an integral part of the  
12 vehicle and which constitutes a major manufacturing alteration and who may issue  
13 a supplemental or secondary statement of origin;
- 14 (6) "Demonstration," the noncommercial use of a dealer owned vehicle by any employee  
15 of the dealership for any purpose in the ordinary course of business relating to the  
16 sale of the vehicle within the trade or market area of the dealership or demonstration  
17 by any prospective buyer for a period of three days. The term includes vehicles  
18 donated by a dealership to a community or organization and used for a one-day  
19 parade or event;
- 20 (6A) "Department," the Department of Revenue and Regulation;
- 21 (6B) "Emergency vehicle dealer," any person who converts or manufacturers authorized  
22 emergency vehicles and who, for commission or with intent to make a profit or gain,  
23 sells, exchanges, rents with option to purchase, offers, or attempts to negotiate a sale  
24 or exchange of new, or new and used authorized emergency vehicles, or who is

1 engaged wholly or in part in the business of selling new, or new and used authorized  
2 emergency vehicles;

3 (7) "Franchise," a written or oral agreement or contract between a franchisor and  
4 franchisee which fixes the legal rights and liabilities of the parties to such agreement  
5 or contract;

6 (8) "Franchisee," person who receives vehicles from a franchisor under a franchise and  
7 who offers and sells the vehicles to the general public;

8 (9) "Franchisor," any person engaged in the manufacturing or distribution of vehicles  
9 including any person who acts for the franchisor;

10 (9A) "Good faith, honesty in fact and the observance of reasonable, nondiscriminatory  
11 commercial standards of fair dealing in the trade, as defined and interpreted in the  
12 Uniform Commercial Code as amended to January 1, 2010;

13 (10) "In-transit," the noncommercial use of a dealer owned vehicle by any employee of the  
14 dealership for travel to and from any service facility, detail shop, repair shop, gas  
15 station, car wash, dealer auction, another lot owned by the dealer, a supplemental lot,  
16 temporary special events lot, temporary supplemental lot, or any other location to  
17 facilitate a dealer trade;

18 (10A) "Manufacturer," a person who manufactures or assembles vehicles, including motor  
19 homes, and who issues the original or first manufacturer's statement of origin. The  
20 term, manufacturer, includes a central or principal sales corporation through which  
21 it distributes its products to franchised dealers;

22 (11) "Motor home," a motor vehicle designed as an integral unit to be used as a  
23 conveyance upon the public highways and for use as a temporary or recreational  
24 dwelling and having at least four of the following permanently installed systems:

- 1 (a) Cooking facilities;
- 2 (b) Ice box or mechanical refrigerator;
- 3 (c) Potable water supply including plumbing and a sink with faucet either self-  
4 contained or with connections for an external source, or both;
- 5 (d) Self-contained toilet connected to a plumbing system with connection for  
6 external water disposal;
- 7 (e) Heating or air conditioning system, or both, separate from the vehicle engine  
8 or the vehicle electrical system;
- 9 (f) A one hundred ten--one hundred fifteen volt alternating current electrical  
10 system separate from the vehicle engine electrical system either with its own  
11 power supply or with a connection for an external source, or both, or a  
12 liquified petroleum system and supply;
- 13 (12) "Public auction," a business that is open to the public where South Dakota titled  
14 motor vehicles are consigned, displayed, and auctioned to the highest bidder by an  
15 auctioneer;
- 16 (12A) "Recreational park trailer," a vehicle that is primarily designed to provide temporary  
17 living quarters for recreational, camping, or seasonal use and which:
  - 18 (a) Is built on a single chassis mounted on wheels;
  - 19 (b) Has a gross trailer area not exceeding four hundred square feet in the setup  
20 mode;
  - 21 (c) Is certified by the manufacturer as complying with American National  
22 Standards Institute Standard No. A119.5 in effect on January 1, 2008; and
  - 23 (d) Has at least a seventeen digit identification number and the manufacturer has  
24 designated the vehicle as a recreational park model on the manufacturer

1 statement of origin;

2 (13) "Sell-it-yourself lot," any space provided to a person for a fee to display that person's  
3 boat or vehicle for sale;

4 (14) "Semitrailer," any vehicle of the trailer type, equipped with a kingpin assembly,  
5 designed and used in conjunction with a fifth wheel connecting device on a motor  
6 vehicle and constructed so that some part of its weight and that of its load rests upon  
7 or is carried by another vehicle;

8 (15) "Supplemental lot," a physically separate location owned and maintained by a  
9 licensed dealer within the same county as the principal place of business;

10 (16) "Temporary special events lot," a location other than the principal place of business,  
11 supplemental lot, or temporary supplemental lot where a licensed trailer dealer, a  
12 licensed used car dealer selling only truck tractors, travel trailers, or motor homes,  
13 or any combination thereof, or a licensed vehicle dealer selling only truck tractors,  
14 travel trailers, or motor homes, or any combination thereof, may conduct business for  
15 a period of time not to exceed ten consecutive days for a specific purpose such as  
16 fairs, auctions, shopping center sales, or tent sales. A temporary special events lot  
17 shall meet all local zoning and building codes for the type of business being  
18 conducted;

19 (17) "Temporary supplemental lot," a location other than the principal place of business  
20 or supplemental lot but within the same county as the principal place of business, or  
21 within the corporate limits of a municipality which overlaps boundaries of a county,  
22 or in an adjoining county, if the adjoining county has no licensed vehicle dealer  
23 selling automobiles, pick-ups, or passenger vans and the temporary supplemental lot  
24 is no more than ten miles from the principal place of business, where a licensed

1 vehicle dealer or a licensed used vehicle dealer may conduct business for a period of  
2 time not to exceed ten consecutive days for a specific purpose such as fairs, auto  
3 shows, auctions, shopping center promotions, or tent sales. A temporary  
4 supplemental lot shall meet all local zoning and building codes for the type of  
5 business being conducted. If a licensed vehicle dealer establishes a temporary  
6 supplemental lot in a county with a licensed used vehicle dealer, a licensed used  
7 vehicle dealer may establish a temporary supplemental lot in a county with a licensed  
8 vehicle dealer. A licensed vehicle dealer may establish, for manufacturer sponsored  
9 events, a temporary supplemental lot in an adjoining county that has no like  
10 franchised licensed dealer;

11 (18) "Trailer," any vehicle without motive power designed to be coupled to or drawn by  
12 a motor vehicle and constructed so that no part of its weight or that of its load rests  
13 upon the towing vehicle;

14 (19) "Trailer dealer," any person who, for commission or with intent to make a profit or  
15 gain, sells, exchanges, rents with option to purchase, offers or attempts to negotiate  
16 a sale or exchange of new or used trailers, semitrailers or travel trailers or who is  
17 engaged in the business of selling new or used trailers, semitrailers or travel trailers  
18 whether or not such vehicles are owned by such person;

19 (20) "Travel trailer," any trailer or semitrailer which provides as its primary purpose  
20 adequate, comfortable, temporary living quarters while on pleasure excursions or  
21 while touring for business, professional, educational or recreational purposes;

22 (21) "Used vehicle dealer," any person who, for commission or with intent to make a  
23 profit or gain sells, exchanges, rents with option to purchase, offers or attempts to  
24 negotiate a sale or exchange of used vehicles or who is engaged in the business of

1 selling used vehicles; or any person who sells five or more used vehicles or offers for  
2 sale five or more used vehicles at the same address or telephone number in any one  
3 calendar year;

4 (22) "Vehicle," any new or used automobile, truck, truck tractor, motorcycle, motor home,  
5 trailer, semitrailer or travel trailer of the type and kind required to be titled and  
6 registered under chapters 32-3 and 32-5, except manufactured homes, mobile homes,  
7 mopeds or snowmobiles;

8 (23) "Vehicle dealer," any person who, for commission or with intent to make a profit or  
9 gain, sells, exchanges, rents with option to purchase, offers or attempts to negotiate  
10 a sale or exchange of new, or new and used vehicles, or who is engaged wholly or in  
11 part in the business of selling new, or new and used vehicles.

12 Section 2. That § 32-6B-7 be amended to read as follows:

13 32-6B-7. Before any license is issued, the applicant shall deliver to the department a good  
14 and sufficient surety bond, executed by the applicant as principal and by a surety company  
15 qualified to do business in the state as surety. The bond shall be for an amount based upon the  
16 type of license applied for, as follows:

- 17 (1) Vehicle dealer's license --\$25,000;
- 18 (2) Used vehicle dealer's license --\$25,000;
- 19 (3) Motorcycle dealer's license --\$5,000;
- 20 (4) Trailer dealer's license --\$10,000 for trailers weighing ~~2,000~~ more than 3,000 pounds  
21 ~~or more~~; or
- 22 (5) Emergency vehicle dealer's license --\$10,000.

23 The bond shall be to the department and in favor of any customer who suffers any loss that  
24 may be occasioned by reason of the failure of title or by reason of any fraudulent

1 misrepresentation or breaches of warranty as to freedom from liens. The bond shall be for the  
2 license period;~~and a.~~ A new bond or a proper continuation certificate shall be delivered to the  
3 department at the beginning of each license period. Any surety company that pays a claim  
4 against the bond of a licensee shall notify the department, in writing, that it has paid such a  
5 claim. Any surety company that cancels the bond of a licensee shall notify the department, in  
6 writing, of the cancellation, giving the reason for that cancellation. If a claim is made to the  
7 department against the bond, which claim is based upon a final judgment of a court of record  
8 of this state, the dealer shall execute an additional bond for the amount necessary to maintain  
9 the security at the original level.

10 Section 3. That § 32-6B-10 be amended to read as follows:

11 32-6B-10. No dealer's license may be issued to a person who desires to sell or offer for sale  
12 new vehicles; until the applicant furnishes written proof, satisfactory to the department, ~~that he~~  
13 the person has a bona fide contract or franchise in effect in this state with the manufacturer of  
14 the vehicle;~~or vehicles, he~~ the person proposes to deal in. For the purposes of this section,  
15 written proof which does not adequately capture the intent of both the applicant and the  
16 manufacturer to be bound by the subject franchise or bona fide contract may be deemed  
17 insufficient by the department.

18 Section 4. That chapter 32-6B be amended by adding thereto a NEW SECTION to read as  
19 follows:

20 The provisions of §§ 32-6B-45 to 32-6B-56, inclusive, do not apply to any trailer franchisee  
21 dealing in trailers with a weight of three thousand pounds or less. This section may not be  
22 construed to exclude such a franchisee from the licensing and other requirements contained in  
23 this chapter.

24 Section 5. That § 32-6B-45 be amended to read as follows:

1       32-6B-45. ~~No franchisor may terminate or refuse to continue any franchise unless the~~  
2 ~~franchisor has first established in a hearing held under the provisions of chapter 1-26, that:~~

3 ~~—(1)— The franchisor has cause for termination or noncontinuance; and~~

4 ~~—(2)— Upon termination or noncontinuance, another franchise in the same line-make will~~  
5 ~~become effective in the same community without diminution of the vehicle service~~  
6 ~~formerly provided or that the community cannot be reasonably expected to support~~  
7 ~~such a dealership. No franchisor may, directly or through an officer, agent, or~~  
8 ~~employee, terminate, cancel, fail to renew, or substantially change the competitive~~  
9 ~~circumstances of a vehicle dealership agreement without good cause. For the~~  
10 ~~purposes of this section, good cause means failure by a vehicle dealer to substantially~~  
11 ~~comply with essential and reasonable requirements imposed upon the vehicle dealer~~  
12 ~~by the vehicle dealership agreement, if the requirements are not different from those~~  
13 ~~requirements imposed on other similarly situated vehicle dealers by their terms. In~~  
14 ~~addition, good cause exists if:~~

15       (1) Without the consent of the vehicle manufacturer, the vehicle dealer has transferred  
16 an interest in the vehicle dealership, there has been a withdrawal from the dealership  
17 of an individual proprietor, partner, major shareholder, or the manager of the  
18 dealership, or there has been a substantial reduction in interest of a partner or major  
19 stockholder;

20       (2) The vehicle dealer has filed a voluntary petition in bankruptcy or has had an  
21 involuntary petition in bankruptcy filed against it which has not been discharged  
22 within thirty days after the filing, there has been a closeout or sale of a substantial  
23 part of the dealer's assets related to the vehicle business, or there has been a  
24 commencement of dissolution or liquidation of the dealer;

1       (3)   There has been a change, without the prior written approval of the manufacturer, in  
2       the location of the dealer's principal place of business under the dealership  
3       agreement;

4       (4)   The vehicle dealer has defaulted under a security agreement between the dealer and  
5       the vehicle manufacturer or there has been a revocation or discontinuance of a  
6       guarantee of the dealer's present or future obligations to the vehicle manufacturer;

7       (5)   The vehicle dealer has failed to operate in the normal course of business for seven  
8       consecutive days or has otherwise abandoned the business;

9       (6)   The vehicle dealer has pleaded guilty to or has been convicted of a felony affecting  
10      the relationship between the dealer and the manufacturer;

11      (7)   The dealer has engaged in conduct which is injurious or detrimental to the dealer's  
12      customers or to the public welfare; or

13      (8)   The vehicle dealer, after receiving notice from the manufacturer of its requirements  
14      for reasonable market penetration based on the manufacturer's experience in other  
15      comparable marketing areas, consistently fails to meet the manufacturer's market  
16      penetration requirements.

17      A vehicle manufacturer shall provide a vehicle dealer at least ninety days prior written notice  
18      of termination, cancellation, or nonrenewal of the dealership agreement. The notice shall state  
19      all reasons constituting good cause for the action and shall provide that the dealer has sixty days  
20      in which to cure any claimed deficiency. If the deficiency is rectified within sixty days, the  
21      notice is void. The notice and right to cure provisions under this section do not apply if the  
22      reason for termination, cancellation, or nonrenewal is for any reason set forth in subdivisions  
23      (1) to (7), inclusive.

24      Section 6. That § 32-6B-46 be repealed.

1 ~~32-6B-46. In determining whether cause is established for terminating or not continuing a~~  
2 ~~franchise, the department shall consider the existing circumstances, including, but not limited~~  
3 ~~to:~~

4 ~~(1) Failure by the franchisee to comply with requirements imposed upon him by the~~  
5 ~~franchise, which requirements are both essential and reasonable;~~

6 ~~(2) Use of bad faith by the franchisee in carrying out the terms of the franchise;~~

7 ~~(3) Whether the franchisee has adequate new vehicle facilities, equipment, parts, and~~  
8 ~~qualified management, sales, and service personnel to reasonably provide consumer~~  
9 ~~care for the new vehicles sold at retail by the franchisee;~~

10 ~~(4) Whether the franchisee refuses to honor warranties of the franchisor to be performed~~  
11 ~~by the franchisee if the franchisor reimburses the franchisee for such warranty work~~  
12 ~~performed by the franchisee; or~~

13 ~~(5) Whether it is injurious to the public welfare for the business of the franchisee to be~~  
14 ~~discontinued.~~

15 Section 7. That § 32-6B-49.1 be amended to read as follows:

16 32-6B-49.1. No franchise agreement may include any term or condition in a franchise that:

17 (1) Requires the franchisee to waive trial by jury involving the franchisor;

18 (2) Specifies the jurisdictions, venues or tribunals in which disputes arising with respect  
19 to the franchise, lease or agreement shall or may not be submitted for resolution or  
20 otherwise prevents a franchisee from bringing an action in a particular forum  
21 otherwise available under the law;

22 (3) Requires that disputes between the franchisor and franchisee be submitted to  
23 arbitration or to any other binding alternate dispute resolution procedure. However,  
24 any franchise, lease or agreement may authorize the submission of a dispute to

1 arbitration or to binding alternate dispute resolution if the franchisor and franchisee  
2 voluntarily agree to submit the dispute to arbitration or binding alternate dispute  
3 resolution at the time the dispute arises;

4 (4) Requires a franchisee to pay the attorney fees of a franchisor;

5 (5) Prohibits the holder of an existing franchise from being dualled with another  
6 franchisor's line that does not substantially affect the current franchisor or  
7 community;

8 (6) Prohibits the holder of an existing franchise from moving to another facility within  
9 the franchisee's community that is equal to or superior to the franchisee's former  
10 facility; ~~or~~

11 (7) Prohibits the holder of an existing franchise from making improvements to the  
12 franchisee's current facility within the franchisee's community; or

13 (8) Permits a franchisor or the franchisor's assignee to exercise a right of first refusal to  
14 acquire a franchisee's franchise or a franchisee's assets in connection with the sale by  
15 a franchisee of that franchisee's franchise or assets.

16 An existing franchisee shall give the franchisor prior written notice of the proposed dual  
17 arrangement, relocation, or improvement described in subdivisions (5), (6), and (7). The notice  
18 shall contain sufficient information for the franchisor to evaluate the proposal. Within sixty days  
19 of receiving said notice, the franchisor shall send a letter to the franchisee either approving or  
20 disapproving the proposal. If the franchisor does not notify the franchisee of its approval or  
21 denial of the dual arrangement, relocation, or improvement within the sixty-day period, the  
22 franchisee's proposal shall be deemed to have been approved. No franchisor may unreasonably  
23 withhold its approval. Denial of a proposed dual arrangement or facility improvement shall be  
24 supported by credible evidence that it will substantially affect in an adverse way the current

1 franchisor or community. Denial of a proposed relocation shall be supported by credible  
2 evidence that the new location is not at least equal to the franchisee's former facility.

3 This section does not apply to agreements pertaining to the lease or sale of real property.

4 Section 8. That § 32-6B-50 be amended to read as follows:

5 32-6B-50. If a franchisor seeks to ~~terminate or not continue a franchise or seeks to enter into~~  
6 an additional franchise of the same line-make, the franchisor shall file a notice with the  
7 department of ~~his~~ the franchisor's intention to ~~terminate or not continue the franchise or to enter~~  
8 into a franchise for additional representation of the same line-make. ~~This section does not apply~~  
9 ~~to any intended termination or noncontinuance of a franchise which the franchisee elects~~  
10 ~~voluntarily.~~

11 Section 9. That § 32-6B-51 be amended to read as follows:

12 32-6B-51. Upon receiving a notice of intention, ~~the department shall, within five days, send~~  
13 ~~by first class mail, a copy of the notice to the franchisee whose franchise the franchisor seeks~~  
14 ~~to terminate or not continue. If the notice seeks~~ seeking to establish an additional franchise of  
15 the same line-make in a particular community, a copy of the notice shall be sent within five days  
16 of receipt to all franchisees in the community who are engaged in the business of offering to sell  
17 or selling the same line-make. The department may also give a copy of the franchisor's notice  
18 to any other party which it considers interested persons.

19 Section 10. That § 32-6B-54 be amended to read as follows:

20 32-6B-54. Upon a hearing conducted under the provisions of chapter 1-26, the franchisor  
21 has the burden of proof to establish that cause exists to ~~terminate or not continue the franchise,~~  
22 ~~or to enter into a franchise establishing an additional dealership.~~

23 Section 11. That § 32-6B-55 be amended to read as follows:

24 32-6B-55. If a franchisor is not permitted to ~~terminate or not to continue a franchise and is~~

1 ~~further permitted not to~~ enter into a franchise for the line-make in the community, no such  
2 franchise may thereafter be entered into for the sale of such vehicles ~~of that line-make~~ in the  
3 community; unless the franchisor ~~has first established~~ thereafter establishes, in a subsequent  
4 hearing held under the provisions of chapter 1-26, that there has been a change of circumstances  
5 so that the community at that time can be reasonably expected to support ~~the~~ such a dealership.

6 Section 12. That § 32-6B-56 be amended to read as follows:

7 32-6B-56. If a franchisor enters into or attempts to enter into a franchise, ~~whether upon~~  
8 ~~termination or refusal to continue another franchise or upon the establishment of~~ for an  
9 additional new vehicle dealership in a community where the same line-make is already  
10 represented, without first complying with the provisions of this chapter, no dealer's license may  
11 be issued to that franchisee or proposed franchisee to engage in the business of selling new  
12 vehicles, manufactured or distributed by that franchisor.

13 Section 13. That § 32-6B-58 be amended to read as follows:

14 32-6B-58. Every franchisor or manufacturer shall properly fulfill any warranty agreement  
15 and compensate, as set forth in § 32-6B-61, each of its vehicle dealers for labor and parts. The  
16 franchisor or manufacturer shall pay all claims made by a vehicle dealer for the labor and parts  
17 within thirty days following their approval. The franchisor or manufacturer shall either approve  
18 or disapprove the claim within thirty days after its receipt. If a claim is disapproved, the vehicle  
19 dealer who submitted the claim shall be notified in writing of ~~its~~ the claim's disapproval within  
20 the thirty-day period. Any claim rejected for technical reasons may be put into proper form by  
21 the vehicle dealer. Any claim resubmitted by the vehicle dealer within thirty days after the  
22 receipt of the claim shall be considered to be approved and payment shall be made within thirty  
23 days. The franchisor or manufacturer has the right to audit any vehicle dealer ~~claims~~ claim for  
24 ~~one year after payment~~ a period of one year after the claim is paid to the dealer and to charge

1 back to the new vehicle dealer the amount of any unsubstantiated claim. If there is evidence of  
2 fraud by the vehicle dealer, the audit period is two years from the actual or constructive notice  
3 of facts constituting the alleged fraud.

4 Section 14. That § 32-6B-61 be amended to read as follows:

5 32-6B-61. The schedule of compensation for warranty work shall include reasonable  
6 compensation for diagnostic work, as well as repair service, parts, and labor. Time allowances  
7 for diagnosis and performance of warranty work and service shall be adequate for the work to  
8 be performed. The hourly labor rate paid to the dealer for warranty services may not be less than  
9 the rate charged by the dealer for like service to nonwarranty customers for nonwarranty service.  
10 Reimbursement for parts used in the performance of warranty repair may not be less than the  
11 ~~amount paid by the dealer to acquire the parts plus a reasonable allowance for handling, which~~  
12 ~~may not be less than thirty percent current retail rate customarily charged by the vehicle dealer~~  
13 ~~for such parts. Each manufacturer, in establishing a schedule of compensation for warranty~~  
14 ~~work, shall rely on the vehicle dealer's written schedule of hourly labor rates and parts and may~~  
15 ~~not obligate any vehicle dealer to engage in unduly burdensome documentation thereof,~~  
16 ~~including, without limitation, obligating vehicle dealers to engage in transaction by transaction~~  
17 ~~calculations.~~

18 Section 15. That § 32-6B-69.1 be amended to read as follows:

19 32-6B-69.1. A franchisor may reasonably and periodically audit a franchisee to determine  
20 the validity of paid claims or chargebacks for customer or dealer incentives. An audit of  
21 incentive payments may apply only to the two-year period immediately preceding the date on  
22 ~~which the dealer was notified of an impending audit~~ for a period of one year after the claims are  
23 paid to the dealer. The limitations of this section do not apply if the franchisor can prove fraud.

24 Section 16. That § 32-6B-77 be amended to read as follows:

1       32-6B-77. A dealer whose application to transfer is rejected may file an objection ~~with the~~  
2 ~~department~~ as provided for in § 32-6B-53, or the dealer may file a civil proceeding to challenge  
3 the denial of the transfer. In an action brought under §§ 32-6B-73 to 32-6B-78, inclusive, the  
4 burden is on the manufacturer or franchisor to prove that the prospective transferee is not  
5 qualified. An objection filed under §§ 32-6B-73 to 32-6B-78, inclusive, is a contested case.

6       Section 17. That § 32-6B-84 be repealed.

7       ~~32-6B-84. Notwithstanding the terms of any franchise, the manufacturer or franchisor may~~  
8 ~~exercise a right of first refusal to acquire the vehicle dealer's assets or ownership if all of the~~  
9 ~~following conditions are met:~~

10       ~~(1) The manufacturer or franchisor notifies the vehicle dealer in writing within sixty days~~  
11               ~~of its receipt of the completed proposal for the sale or transfer and all related~~  
12               ~~agreements of its exercise of the right of first refusal along with a concise statement~~  
13               ~~of its reasons for doing so;~~

14       ~~(2) The exercise of the right of first refusal results in the vehicle dealer receiving the~~  
15               ~~same or greater consideration as the vehicle dealer has contracted to receive in~~  
16               ~~connection with the proposed change of ownership or transfer;~~

17       ~~(3) The proposed sale or transfer does not involve the transfer or sale to a member or~~  
18               ~~members of the family of one or more vehicle dealers, or to a qualified manager with~~  
19               ~~at least two years management experience at the dealership of one or more of such~~  
20               ~~vehicle dealers, or to an entity controlled by such persons;~~

21       ~~(4) The manufacturer or franchisor agrees to pay the reasonable expenses, including~~  
22               ~~attorney fees not to exceed the usual, customary, and reasonable fees charged for~~  
23               ~~similar work done for other clients, incurred by the proposed owner or transferee~~  
24               ~~prior to the manufacturer's or franchisor's exercise of its right of first refusal in~~

1 ~~negotiating and implementing the contract for the proposed sale or transfer. The~~  
2 ~~expenses and attorney fees shall be paid to the proposed new owner or transferee at~~  
3 ~~the time of closing of the sale or transfer for which the manufacturer or franchisor~~  
4 ~~exercised its right of first refusal. No payment of expenses and attorney fees is~~  
5 ~~required if the proposed new owner or transferee has not submitted an accounting of~~  
6 ~~those expenses within thirty days of the vehicle dealer's receipt of the manufacturer's~~  
7 ~~or franchisor's written request for such an accounting. A manufacturer or franchisor~~  
8 ~~may request an accounting before exercising a right of first refusal;~~

9 ~~— (5) — The vehicle dealer has no liability to any person or entity as to any disclosed term,~~  
10 ~~condition, or issue as a result of a manufacturer or franchisor exercising a right of~~  
11 ~~first refusal; and~~

12 ~~— (6) — Regardless of any express terms, provisions, or conditions of the franchise, the~~  
13 ~~exercise of the right of first refusal is not unreasonable.~~

14 Section 18. That § 32-6B-78 be amended to read as follows:

15 32-6B-78. The issue in an objection filed under §§ 32-6B-73 to 32-6B-78, inclusive, either  
16 with the department or in a separate civil proceeding, is whether or not the prospective  
17 transferee is qualified. The department, or a court in a separate civil proceeding, shall enter an  
18 order holding that the prospective transferee either is qualified or is not qualified. If the  
19 department's or a court's order is that the prospective transferee is qualified, the dealer's  
20 franchise agreement is amended to reflect the change in franchisee and the manufacturer or  
21 franchisor shall accept the transfer for all purposes. If the department's or a court's order is that  
22 the prospective transferee is not qualified, the department or a court may include specific  
23 reasons why the prospective transferee is not qualified and may include specific conditions  
24 under which the prospective transferee would be qualified. If the department's or a court's order

1 that a prospective transferee is not qualified includes specific conditions under which the  
2 prospective transferee would be qualified, the department or a court may retain jurisdiction of  
3 the dispute for a time certain to allow the dealer and prospective transferee to meet the  
4 conditions set forth.

5 Section 19. That chapter 32-6B be amended by adding thereto a NEW SECTION to read as  
6 follows:

7 The provisions of this chapter as amended on the effective date of this Act apply to each  
8 vehicle dealer in any written or oral vehicle dealership agreement existing between a dealer and  
9 a manufacturer or distributor on the effective date of this Act which has no expiration date and  
10 to any subsequent written or oral vehicle dealership agreement entered into, amended, or  
11 renewed between a vehicle dealer and a manufacturer or distributor.

12 Section 20. That chapter 32-6B be amended by adding thereto a NEW SECTION to read as  
13 follows:

14 Notwithstanding the terms of any vehicle dealer agreement or waiver to the contrary, any  
15 vehicle dealer whose business or property is injured, or is about to be injured, by any violation  
16 of § 32-6B-45 to 32-6B-84, inclusive, may bring a civil action to enjoin any such violation,  
17 without having to prove irreparable injury, and to recover actual damages sustained, together  
18 with costs, disbursements, and reasonable attorney fees.

19 Section 21. That § 37-5-12.2 be amended to read as follows:

20 37-5-12.2. For the purposes of §§ 37-5-1 to 37-5-12, inclusive, the term, merchandise,  
21 means:

- 22 (1) Automobiles, trucks, motorcycles, motor homes or travel trailers of the type and kind  
23 required to be titled and registered pursuant to chapters 32-3 and 32-5, and  
24 accessories;

- 1 (2) Farm tractors, farm implements, farm machinery, and attachments;
- 2 (3) Industrial and construction equipment and attachments;
- 3 (4) Boats and personal watercraft;
- 4 (5) Snowmobiles and all-terrain vehicles, including multipurpose utility vehicles, side
- 5 by sides, and similar type vehicles whether powered by electricity or by combustion
- 6 engine;
- 7 (6) Office furniture, equipment, supplies, and attachments;
- 8 (7) Outdoor power equipment and attachments;
- 9 (8) A temperature control unit; and
- 10 (9) An auxiliary idle reduction and temperature management system or auxiliary power
- 11 unit.

12 For the purposes of this section, the term, temperature control unit, means a piece of  
13 equipment that is mounted on a titled vehicle (trailer, rail car, or container) for the temperature  
14 management of temperature sensitive cargo.

15 For the purposes of this section, the term, auxiliary idle reduction and temperature  
16 management system, means a piece of equipment that is mounted on a titled vehicle, usually a  
17 semi-tractor, to enable the driver to turn off the engine yet have access to air conditioning, heat,  
18 and electric power inside the vehicle's cab.

19 Section 22. That chapter 37-5 be amended by adding thereto a NEW SECTION to read as  
20 follows:

21 Any manufacturer or supplier of merchandise as defined in subdivision 37-5-12.2(5) that  
22 authorizes a dealer of such merchandise to perform the warranty work is obligated to provide  
23 that dealer reasonable compensation for diagnostic work, as well as repair service, parts, and  
24 labor to the dealer. Time allowances for diagnostic and performance of warranty work and

1 service shall be adequate for the work to be performed. The hourly labor rate paid to the dealer  
2 for warranty services may not be less than the rate charged by the dealer for like service to  
3 nonwarranty customers for nonwarranty service. Reimbursement for parts used in the  
4 performance of warranty repair may not be less than the current retail rate customarily charged  
5 by the dealer for the part or parts.

6 Section 23. Whereas, this Act is necessary for the immediate preservation of the public  
7 peace, health, or safety, an emergency is hereby declared to exist, and this Act shall be in full  
8 force and effect from and after its passage and approval.

# State of South Dakota

EIGHTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2010

606R0041

HOUSE AGRICULTURE AND NATURAL RESOURCES

ENGROSSED NO. **HB 1127** - 2/4/2010

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

Introduced by: Representatives Sorenson, Bolin, Brunner, Cronin, Engels, Fargen, Feickert, Frerichs, Hoffman, Hunhoff (Bernie), Jensen, Juhnke, Kirkeby, Kopp, Lange, Moser, Olson (Betty), Olson (Ryan), Rounds, Steele, Thompson, Van Gerpen, and Verchio and Senators Garnos, Ahlers, Bartling, Hanson (Gary), Heidepriem, Kloucek, Maher, Peterson, Rhoden, and Tieszen

1 FOR AN ACT ENTITLED, An Act to authorize landowners and lessees to possess certain game  
2 animal and game bird trophies.

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

4 Section 1. That chapter 41-14 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 The secretary of game, fish and parks may provide a written authorization allowing a  
7 resident landowner or lessee to take possession of the antlers, horns, and skulls of white-tailed  
8 deer, mule deer, or antelope found on the landowner's property or a game bird found on the  
9 property if a conservation officer has determined that there is no reasonable suspicion that the  
10 animal may have been killed illegally. The landowner or lessee may not take possession of the  
11 deer or antelope parts or game bird unless a conservation officer has:

12 (1) Examined the animal before it is moved from the location where it was initially



1 found;

2 (2) Conducted an investigation; and

3 (3) Subsequently made a determination as to the presence or lack of reasonable suspicion  
4 of a violation of state law or rule.

5 If evidence exists that the deer, antelope, or game bird was killed by a firearm or bow and  
6 arrow, the conservation officer shall consult with the officer's immediate supervisor to  
7 determine appropriate disposition of the antlers, horns, skull, or game bird.

# State of South Dakota

EIGHTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2010

858R0090

SENATE EDUCATION

ENGROSSED NO. **HB 1160** - 2/23/2010

Introduced by: Representatives Lederman, Brunner, Fargen, Hamiel, Hunt, Kopp, McLaughlin, Olson (Betty), Sly, Sorenson, Steele, and Van Gerpen and Senators Adelstein, Dempster, Fryslie, Gillespie, Novstrup (Al), Peterson, and Rhoden

1 FOR AN ACT ENTITLED, An Act to allow certain students to participate in the opportunity  
2 scholarship program under certain circumstances.

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

4 Section 1. That chapter 13-55 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 Any student who does not meet the high school course requirements as provided in Board  
7 of Regents Policy Number 2:3(2)(F) as in effect on July 1, 2009, is eligible for the opportunity  
8 scholarship program if:

9 (1) The student takes the test administered by the American College Testing Program  
10 and earns a composite score of twenty-eight or higher, while also attaining  
11 sufficiently high markers in reading, writing, mathematics, and science as not to  
12 require remediation in any of those areas; or

13 (2) The student takes the Scholastic Assessment Test and earns a verbal-mathematics



1 score of twelve hundred or higher, while also attaining sufficiently high markers in  
2 reading, writing, mathematics, and science as not to require remediation in any of  
3 those areas.

# State of South Dakota

EIGHTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2010

947R0630

## HOUSE ENGROSSED NO. **HB 1188** - 2/18/2010

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

Introduced by: Representatives Rave, Brunner, Fargen, Hamiel, Lederman, Moser, Sly, Sorenson, and Van Gerpen and Senators Olson (Russell) and Rhoden

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

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

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

5 13-6-85. A boundary change, affecting not more than two percent of the assessed valuation  
6 and not more than two percent of the tax-exempt acreage or other tax-exempt property to be  
7 determined at the discretion of the school district from which the area is to be taken, may be  
8 made upon an application for a boundary change to the school board of the school district from  
9 which the area is to be taken and to the school board of the school district to which the area is  
10 to be annexed; The area to be annexed shall include at least five residential units and children  
11 residing in the area or consist solely of land containing no residential units. If the area includes  
12 residential units, the application shall be in the form of a petition signed by at least sixty percent  
13 of the owners of land, excluding land owned by the state or any other political subdivision in  
14 the area to be transferred by the boundary change. If the area consists solely of land containing



1 no residential units, the application shall be in the form of a petition signed by all of the owners  
2 of land, excluding land owned by the state or any other political subdivision in the area to be  
3 transferred by the boundary change. Copies of the petitions shall also be delivered by the  
4 petitioners to the board of county commissioners having jurisdiction over the school districts  
5 affected. Any petitioner who is aggrieved by a decision of the school board under this section  
6 may appeal that decision.

7 For purposes of this section, a residential unit is an occupied single family dwelling,  
8 including a house, condominium apartment, or manufactured home as defined in § 32-3-1, or  
9 any multi-unit residential structure in which more than one family unit resides.

10 An appeal from the decision of the school board may be made to the circuit court in the time  
11 and manner specified by § 13-46-1 or to the secretary of the Department of Education or the  
12 secretary's representative within thirty days from the date of the decision of the school board by  
13 filing a notice with the secretary of the school board and mailing a copy of the notice to the  
14 secretary of the Department of Education. An appeal to the secretary of the Department of  
15 Education may be heard by the secretary or the secretary's representative. The secretary of the  
16 Department of Education shall thereafter set a time and place for the hearing and give at least  
17 ten days' written notice of the hearing to the parties involved in the appeal, including all affected  
18 school districts. An appeal to the secretary is not a contested case subject to chapter 1-26. An  
19 appeal from the decision of the secretary may be made pursuant to § 13-6-89. On appeal from  
20 a decision of the secretary, the appeal shall be heard and determined in the same manner as a  
21 direct appeal from the school board decision pursuant to § 13-6-89 and chapter 13-46 without  
22 any presumption of the correctness of the decision of the secretary nor may the provisions of  
23 § 1-26-36 be applied to the decision of the secretary. Nothing in this section affects the right of  
24 an aggrieved party to appeal from the decision of the school board to the circuit court.

1 Section 2. That § 13-6-84.1 be amended to read as follows:

2 13-6-84.1. In all proposed changes in school district boundaries, the following conditions  
3 shall prevail:

4 ~~(1)~~ The boundary of the area proposed to be transferred shall be coterminous at some  
5 point with the common boundary of the two school districts. Land owned by the  
6 federal, state, or local governments and unoccupied land may be included in the  
7 request;

8 ~~(2)~~ Children must reside within the boundary of the area to be transferred, unless it is an  
9 area change initiated by a school board as provided in § 13-6-84.2.