

State of South Dakota

EIGHTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2012

400T0356

SENATE STATE AFFAIRS ENGROSSED NO. **HB 1046** - 2/15/2012

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

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding child custody during
2 a soldier's deployment.

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

4 Section 1. That § 33-6-10 be amended to read as follows:

5 33-6-10. A ~~member of the armed forces of the United States, including a member of the~~
6 ~~reserve component of the armed forces of the United States called into active service of the~~
7 ~~armed forces, and servicemember ordered to deployment,~~ who is the physical custodian or
8 guardian of a minor or incapacitated person, may delegate by a properly executed power of
9 attorney to another person for a period of one year or less any of the powers regarding care and
10 custody of the minor child or ward, except the power to consent to marriage or adoption of a
11 minor ward. If the ~~custodian or guardian is serving on active duty with the armed forces of the~~
12 ~~United States, and a power of attorney properly executed by such person~~ lapses prior to the
13 servicemember's release of such ~~custodian or guardian~~ from active duty, the power of attorney
14 shall be automatically extended for an additional year unless the ~~custodian or guardian~~
15 servicemember is sooner released from active duty. ~~The~~ Neither the execution of such a power



1 of attorney pursuant to this section ~~or upon activation of the service member into the armed~~
2 ~~forces of the United States does not constitute a material change in circumstances for an action~~
3 ~~seeking to change the custody of the affected child or children by the parent without physical~~
4 ~~custody, nor the deployment itself, may be considered a factor in considering a substantial and~~
5 ~~material change of circumstances, nor a factor in a best interest of the child determination for~~
6 ~~purposes of permanent child custody modification proceedings.~~ There is hereby imposed an
7 automatic stay of all proceedings seeking a permanent change in custody of a minor child where
8 the parent with physical custody is a ~~member of the active component or reserve component of~~
9 ~~the armed forces of the United States called into active service during a period of national~~
10 ~~emergency~~ servicemember called to active duty for deployment. Such stay shall continue for the
11 period of service ~~of the national emergency~~ due to deployment, unless waived in writing by the
12 service member. Nothing in this section precludes a petition by the noncustodial parent to
13 temporarily change physical custody, the best interests of the child remains determinative for
14 such temporary custody determinations. ~~However, the best interests of the child shall be~~
15 ~~determinative~~ Any temporary order modifying physical custody of the child automatically
16 terminates upon return of the servicemember from deployment and reverts back to the custody
17 status or order in effect prior to the deployment. However, if upon return from the deployment
18 either the servicemember or child exhibits a substantial and material change in circumstances
19 which adversely affects the servicemember's ability to adequately care for the child, the best
20 interests of the child shall be determinative. ~~The temporary custody provisions of § 25-4A-11~~
21 do not apply to the temporary custody provisions of this section.

State of South Dakota

EIGHTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2012

400T0441

HOUSE APPROPRIATIONS ENGROSSED NO. **HB 1051** - 2/2/2012

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

1 FOR AN ACT ENTITLED, An Act to authorize the South Dakota Building Authority and the
2 Board of Regents to implement the long-term capital project request of the Board of Regents
3 providing for the demolition, construction, remodeling, or renovation of various structures
4 on the campuses of the state's universities and to make appropriations therefor.

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

6 Section 1. It is in the public interest that the South Dakota Building Authority contract for
7 the construction, completion, furnishing, equipping, and maintaining of, including heating, air
8 conditioning, plumbing, water, sewer, electric facilities, sidewalks, parking, landscaping,
9 architectural and engineering services, asbestos abatement, removal of existing roofing and
10 structures, and such other services or actions as may be required to accomplish, the projects
11 enumerated in sections 2 and 3 of this Act, all at the estimated cost of two hundred four million
12 four hundred eighty-two thousand five hundred thirteen dollars. The South Dakota Building
13 Authority may finance up to one hundred seven million dollars of the construction costs through
14 the issuance of revenue bonds, in accordance with this Act and chapter 5-12.

15 Section 2. The campus infrastructure projects authorized in section 1 of this Act, to be



1 financed, in whole or in part, through the issuance of revenue bonds by the South Dakota
2 Building Authority, are the following:

3 (1) Black Hills State University infrastructure repair and upgrade, for an estimated
4 construction cost of four million dollars;

5 (2) Dakota State University energy efficiency and accessibility compliance repairs and
6 upgrades, for an estimated construction cost of one million two hundred seventy-five
7 thousand dollars;

8 (3) Northern State University street improvements, for an estimated construction cost of
9 six hundred thousand dollars;

10 (4) South Dakota School of Mines and Technology utility infrastructure, for an estimated
11 construction cost of two million seven hundred forty thousand dollars;

12 (5) South Dakota State University utility tunnel, steam/condensate infrastructure repair
13 and modernization, including the construction of a supplemental plant building
14 whose new construction is not to exceed fourteen thousand two hundred gross square
15 feet, for an estimated construction cost of seven million dollars;

16 (6) South Dakota State University water, sanitary sewer, and storm sewer repairs and
17 upgrades, for an estimated construction cost of five million dollars; and

18 (7) University of South Dakota mechanical overhaul and modernization, for an estimated
19 construction cost of eight million dollars.

20 Section 3. The building construction or renovation projects authorized in section 1 of this
21 Act, to be financed, in whole or in part, through the issuance of revenue bonds by the South
22 Dakota Building Authority, are the following:

23 (1) Black Hills State University Jonas Hall Science renovation, for an estimated
24 construction cost of two million five hundred thousand dollars, of which no more

1 than one million two hundred fifty thousand dollars may be financed through the
2 issuance of revenue bonds, with the remaining funds being drawn from donations,
3 federal, or other funds as provided in section 8 of this Act;

4 (2) Black Hills State University E.Y. Berry Library renovation, for an estimated
5 construction cost of four million five hundred thousand dollars, of which no more
6 than three million may be financed through the issuance of revenue bonds, with the
7 remaining funds being drawn from donations, federal, or other funds as provided in
8 section 8 of this Act;

9 (3) Dakota State University information system building, not to exceed forty-eight
10 thousand gross square feet, for an estimated construction cost of ten million dollars,
11 of which no more than six million dollars may be financed through the issuance of
12 revenue bonds, with the remaining funds being drawn from donations, federal, or
13 other funds as provided in section 8 of this Act;

14 (4) Northern State University Johnson Fine Arts Center renovation and addition, not to
15 exceed twenty-nine thousand gross square feet, for an estimated construction cost of
16 seven million seven hundred fifty thousand dollars, of which no more than five
17 million dollars may be financed through the issuance of revenue bonds, with the
18 remaining funds being drawn from donations, federal, or other funds as provided in
19 section 8 of this Act;

20 (5) South Dakota School of Mines and Technology research center, not to exceed one
21 hundred twenty thousand gross square feet, for an estimated construction cost of
22 thirty-seven million forty thousand dollars, of which no more than six million forty
23 thousand dollars may be financed through the issuance of revenue bonds, with the
24 remaining funds being drawn from donations, federal, or other funds as provided in

1 section 8 of this Act;

2 (6) South Dakota State University new headhouse and greenhouses, not to exceed
3 twenty-four thousand gross square feet, for an estimated construction cost of three
4 million seven hundred eighty-five thousand dollars, of which no more than one
5 million dollars may be financed through the issuance of revenue bonds, with the
6 remaining funds being drawn from donations, federal, or other funds as provided in
7 section 8 of this Act;

8 (7) South Dakota State University architecture, mathematics, and engineering facility,
9 not to exceed seventy thousand gross square feet, for an estimated construction cost
10 of seventeen million eighty-two thousand eight hundred dollars, of which no more
11 than ten million dollars may be financed through the issuance of revenue bonds, with
12 the remaining funds being drawn from donations, federal, or other funds as provided
13 in section 8 of this Act;

14 (8) South Dakota State University visual arts facility expansion, including the complete
15 renovation of the existing Seedhouse and West Headhouse, whose new construction
16 is not to exceed twenty-three thousand gross square feet, for an estimated
17 construction cost of twelve million four hundred thousand dollars, of which no more
18 than seven million five hundred thousand dollars may be financed through the
19 issuance of revenue bonds, with the remaining funds being drawn from donations,
20 federal, or other funds as provided in section 8 of this Act;

21 (9) South Dakota State University Performing Arts Center expansion, not to exceed one
22 hundred fifteen thousand gross square feet, for an estimated construction cost of
23 thirty-three million one hundred three thousand seven hundred thirteen dollars, of
24 which no more than thirteen million dollars may be financed through the issuance of

1 revenue bonds, with the remaining funds being drawn from donations, federal, or
2 other funds as provided in section 8 of this Act;

3 (10) South Dakota State University new cow-calf research and education unit near Volga,
4 South Dakota, not to exceed fifty-two thousand gross square feet, for an estimated
5 construction cost of three million seven hundred six thousand dollars, of which no
6 more than two million nine hundred thousand dollars may be financed through the
7 issuance of revenue bonds, with the remaining funds being drawn from donations,
8 federal, or other funds as provided in section 8 of this Act;

9 (11) University of South Dakota science, health and research laboratory building, not to
10 exceed eighty thousand gross square feet, for an estimated construction cost of thirty
11 million dollars, of which no more than eight million six hundred ninety-five dollars
12 may be financed through the issuance of revenue bonds, with the remaining funds
13 being drawn from donations, federal, or other funds as provided in section 8 of this
14 Act;

15 (12) University of South Dakota Patterson Hall renovation, for an estimated construction
16 cost of six million five hundred thousand dollars to be financed through the issuance
17 of revenue bonds; and

18 (13) University of South Dakota Dakota Hall renovation, for an estimated construction
19 cost of seven million five hundred thousand dollars to be financed through the
20 issuance of revenue bonds.

21 Section 4. There is hereby appropriated from other fund expenditure authority the sum of
22 one hundred thirty-three thousand dollars (\$133,000), or so much thereof as may be necessary,
23 to the Board of Regents, payable from patent royalty income accruing to South Dakota State
24 University, for the purchase of a tract of land and buildings to form part of the new cow-calf

1 research and education unit near Volga, South Dakota, and described as the Southeast Quarter
2 of the Southwest Quarter of the Southeast Quarter (SE1/4 SW1/4 SE 1/4), EXCEPT the West
3 One Hundred Sixty-Five Feet (W 165') thereof, of Section Thirty-three (33), Township One
4 Hundred Eleven (111) North, Range Fifty-one (51) West of the 5th P.M., Brookings County,
5 South Dakota, for the use by the South Dakota State University cow-calf research and education
6 unit.

7 Section 5. The authorizations granted under sections 1 and 12 of this Act, and all necessary
8 appropriations required to finance and to complete such projects, remain effective until July 1,
9 2026. However, no bonds may be issued under the authority of this Act if such issuance would
10 violate the restriction established in § 13-51-2.

11 Section 6. All cost estimates contained in this Act have been stated in terms of 2011 values.
12 The Building Authority, at the request of the Board of Regents, may adjust such cost estimates
13 to reflect inflation as measured by the Building Cost Index reported by the Engineering News
14 Record, additional expenditures required to comply with regulations adopted after the effective
15 date of this Act, or donations, federal, or other funds received pursuant to section 8 of this Act,
16 provided that such adjustments to project cost estimates for any given project may not exceed
17 one hundred twenty-five percent of the estimated project cost stated in sections 2, 3, or 12 of
18 this Act. Additionally, notwithstanding any adjustment in cost estimates permitted under this
19 section, no increase in gross square footage authorized by subdivisions (3) to (11) inclusive, of
20 section 3 of this Act, or subdivision (5) of section 2 of this Act may exceed ten percent.

21 Section 7. No indebtedness, bond, or obligation incurred or created under the authority of
22 this Act may be or may become a lien, charge, or liability against the state of South Dakota, nor
23 against the property or funds of the state of South Dakota within the meaning of the Constitution
24 or statutes of the state.

1 Section 8. The Building Authority and the Board of Regents may accept, transfer, and
2 expend any funds obtained for the projects authorized in this Act from federal sources,
3 donations, unrestricted other fund transfers, or any other source, all of which comprise a special
4 fund for the benefitted project, and all monies deposited into that fund are hereby appropriated
5 to the projects authorized by this Act in addition to the amounts otherwise authorized by this
6 Act, provided that the aggregate increases to the estimated project funds from such sources may
7 not exceed one hundred twenty-five percent of the estimated project construction cost stated in
8 sections 2 or 3 of this Act.

9 Section 9. The administration of the design and construction of the projects authorized in
10 this Act shall be under the general charge and supervision of the Bureau of Administration as
11 provided in chapter 5-14. The executive director of the Board of Regents and the executive
12 secretary of the Building Authority, or their designees, shall approve vouchers and the state
13 auditor shall draw warrants to pay expenditures authorized by this Act.

14 Section 10. The Board of Regents may make and enter into a lease agreement with the
15 Building Authority and make rental payments under the terms thereof, for the purposes of this
16 Act, pursuant to chapter 5-12, from the higher education facilities fund and, for two million
17 dollars of the bonds issued to finance the project authorized in subdivision (10) of section 3 of
18 this Act, from other fund appropriations.

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

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

9 Section 12. The Board of Regents may demolish certain buildings that will be replaced by,
10 or whose use will be rendered unnecessary as a result of, construction authorized by this Act.

11 There is hereby appropriated from other fund expenditure authority the sum of one million nine
12 hundred fifty thousand dollars (\$1,950,000), or so much thereof as may be necessary, to the
13 Board of Regents for the purposes of demolition, abatement of asbestos or other such hazardous
14 materials, lawful disposal of the fixtures or rubble, and any other action reasonably necessary
15 to render usable the sites occupied by the following facilities:

- 16 (1) Dakota State University Lowry Hall, comprising eleven thousand seven hundred
17 twenty-three gross square feet, for an estimated cost of seventy thousand dollars;
- 18 (2) South Dakota State University West Greenhouses, comprising eight thousand nine
19 hundred thirty-seven gross square feet, for an estimated cost of thirty thousand
20 dollars;
- 21 (3) South Dakota State University, the Industrial Arts building, comprising four thousand
22 eight hundred forty gross square feet; the Solberg Annex, comprising thirty-two
23 thousand one hundred seventy-eight gross square feet; and the Communications
24 Building, comprising four thousand one hundred eighty-three gross square feet; all

1 for an estimated cost of three hundred fifty thousand dollars;

2 (4) South Dakota State University Grove Hall, comprising eighteen thousand six
3 hundred thirteen gross square feet, for an estimated cost of two hundred seventy-five
4 thousand dollars;

5 (5) South Dakota State University Physiology Building, comprising five thousand two
6 hundred forty-eight gross square feet, for an estimated cost of twenty-five thousand
7 dollars; and

8 (6) University of South Dakota Julian Hall, comprising fifty thousand one hundred
9 seventy-three gross square feet, and Noteboom Hall, comprising twenty-one thousand
10 six hundred sixty-four gross square feet, for an estimated cost of one million two
11 hundred thousand dollars.

12 Section 13. On or before January 1, 2013, and each January first thereafter, until such time
13 as the authorization granted herein expires or the authorized projects are completed, the Board
14 of Regents shall provide a report to the Joint Committee on Appropriations regarding the status
15 of the projects authorized in sections 2, 3, and 12 of this Act.

State of South Dakota

EIGHTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2012

625T0096

HOUSE COMMERCE AND ENERGY ENGROSSED NO. **HB 1059** - 1/30/2012

Introduced by: Representatives Lust, Feinstein, and Gosch and Senators Nygaard and Cutler

1 FOR AN ACT ENTITLED, An Act to revise Article 9 of the Uniform Commercial Code.

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

3 Section 1. That § 57A-9-102 be amended to read as follows:

4 57A-9-102. (a) In this chapter:

5 (1) "Accession" means goods that are physically united with other goods in such a
6 manner that the identity of the original goods is not lost.

7 (2) "Account," except as used in "account for," means a right to payment of a monetary
8 obligation, whether or not earned by performance, (i) for property that has been or
9 is to be sold, leased, licensed, assigned, or otherwise disposed of, (ii) for services
10 rendered or to be rendered, (iii) for a policy of insurance issued or to be issued, (iv)
11 for a secondary obligation incurred or to be incurred, (v) for energy provided or to be
12 provided, (vi) for the use or hire of a vessel under a charter or other contract, (vii)
13 arising out of the use of a credit or charge card or information contained on or for use
14 with the card, or (viii) as winnings in a lottery or other game of chance operated or
15 sponsored by a state, governmental unit of a state, or person licensed or authorized



1 to operate the game by a state or governmental unit of a state. The term includes
2 health-care-insurance receivables. The term does not include (i) rights to payment
3 evidenced by chattel paper or an instrument, (ii) commercial tort claims, (iii) deposit
4 accounts, (iv) investment property, (v) letter-of-credit rights or letters of credit, or
5 (vi) rights to payment for money or funds advanced or sold, other than rights arising
6 out of the use of a credit or charge card or information contained on or for use with
7 the card.

8 (3) "Account debtor" means a person obligated on an account, chattel paper, or general
9 intangible. The term does not include persons obligated to pay a negotiable
10 instrument, even if the instrument constitutes part of chattel paper.

11 (4) "Accounting," except as used in "accounting for," means a record:

12 (A) Authenticated by a secured party;

13 (B) Indicating the aggregate unpaid secured obligations as of a date not more than
14 35 days earlier or 35 days later than the date of the record; and

15 (C) Identifying the components of the obligations in reasonable detail.

16 (5) "Agricultural lien" means an interest, other than a security interest, in farm products:

17 (A) Which secures payment or performance of an obligation for:

18 (i) Goods or services furnished in connection with a debtor's farming
19 operation; or

20 (ii) Rent on real property leased by a debtor in connection with its farming
21 operation;

22 (B) Which is created by statute in favor of a person that:

23 (i) In the ordinary course of its business furnished goods or services to a
24 debtor in connection with a debtor's farming operation; or

- 1 (ii) Leased real property to a debtor in connection with the debtor's farming
2 operation; and
- 3 (C) Whose effectiveness does not depend on the person's possession of the
4 personal property.
- 5 (6) "As-extracted collateral" means:
- 6 (A) Oil, gas, or other minerals that are subject to a security interest that:
- 7 (i) Is created by a debtor having an interest in the minerals before
8 extraction; and
- 9 (ii) Attaches to the minerals as extracted; or
- 10 (B) Accounts arising out of the sale at the wellhead or minehead of oil, gas, or
11 other minerals in which the debtor had an interest before extraction.
- 12 (7) "Authenticate" means:
- 13 (A) To sign; or
- 14 (B) ~~To execute or otherwise adopt a symbol, or encrypt or similarly process a~~
15 ~~record in whole or in part, with the present intent of the authenticating person~~
16 ~~to identify the person and adopt or accept a record~~ With present intent to adopt
17 or accept a record, to attach to or logically associate with the record an
18 electronic sound, symbol, or process.
- 19 (8) "Bank" means an organization that is engaged in the business of banking. The term
20 includes savings banks, savings and loan associations, credit unions, and trust
21 companies.
- 22 (9) "Cash proceeds" means proceeds that are money, checks, deposit accounts, or the
23 like.
- 24 (10) "Certificate of title" means a certificate of title with respect to which a statute

1 provides for the security interest in question to be indicated on the certificate as a
2 condition or result of the security interest's obtaining priority over the rights of a lien
3 creditor with respect to the collateral. The term includes another record maintained
4 as an alternative to a certificate of title by the governmental unit that issues
5 certificates of title if a statute permits the security interest in question to be indicated
6 on the record as a condition or result of the security interest's obtaining priority over
7 the rights of a lien creditor with respect to the collateral.

8 (11) "Chattel paper" means a record or records that evidence both a monetary obligation
9 and a security interest in specific goods, a security interest in specific goods and
10 software used in the goods, a security interest in specific goods and license of
11 software used in the goods, a lease of specific goods, or a lease of specific goods and
12 license of software used in the goods. In this paragraph, "monetary obligation" means
13 a monetary obligation secured by the goods or owed under a lease of the goods and
14 includes a monetary obligation with respect to software used in the goods. The term
15 does not include (i) charters or other contracts involving the use or hire of a vessel
16 or (ii) records that evidence a right to payment arising out of the use of a credit or
17 charge card or information contained on or for use with the card. If a transaction is
18 evidenced by records that include an instrument or series of instruments, the group
19 of records taken together constitutes chattel paper.

20 (12) "Collateral" means the property subject to a security interest or agricultural lien. The
21 term includes:

22 (A) Proceeds to which a security interest attaches;

23 (B) Accounts, chattel paper, payment intangibles, and promissory notes that have
24 been sold; and

- 1 (C) Goods that are the subject of a consignment.
- 2 (13) "Commercial tort claim" means a claim arising in tort with respect to which:
- 3 (A) The claimant is an organization; or
- 4 (B) The claimant is an individual and the claim:
- 5 (i) Arose in the course of the claimant's business or profession; and
- 6 (ii) Does not include damages arising out of personal injury to or the death
- 7 of an individual.
- 8 (14) "Commodity account" means an account maintained by a commodity intermediary
- 9 in which a commodity contract is carried for a commodity customer.
- 10 (15) "Commodity contract" means a commodity futures contract, an option on a
- 11 commodity futures contract, a commodity option, or another contract if the contract
- 12 or option is:
- 13 (A) Traded on or subject to the rules of a board of trade that has been designated
- 14 as a contract market for such a contract pursuant to federal commodities laws;
- 15 or
- 16 (B) Traded on a foreign commodity board of trade, exchange, or market, and is
- 17 carried on the books of a commodity intermediary for a commodity customer.
- 18 (16) "Commodity customer" means a person for which a commodity intermediary carries
- 19 a commodity contract on its books.
- 20 (17) "Commodity intermediary" means a person that:
- 21 (A) Is registered as a futures commission merchant under federal commodities
- 22 law; or
- 23 (B) In the ordinary course of its business provides clearance or settlement services
- 24 for a board of trade that has been designated as a contract market pursuant to

1 federal commodities law.

2 (18) "Communicate" means:

3 (A) To send a written or other tangible record;

4 (B) To transmit a record by any means agreed upon by the persons sending and
5 receiving the record; or

6 (C) In the case of transmission of a record to or by a filing office, to transmit a
7 record by any means prescribed by filing-office rule.

8 (19) "Consignee" means a merchant to which goods are delivered in a consignment.

9 (20) "Consignment" means a transaction, regardless of its form, in which a person delivers
10 goods to a merchant for the purpose of sale and:

11 (A) The merchant:

12 (i) Deals in goods of that kind under a name other than the name of the
13 person making delivery;

14 (ii) Is not an auctioneer; and

15 (iii) Is not generally known by its creditors to be substantially engaged in
16 selling the goods of others;

17 (B) With respect to each delivery, the aggregate value of the goods is \$1,000 or
18 more at the time of delivery;

19 (C) The goods are not consumer goods immediately before delivery; and

20 (D) The transaction does not create a security interest that secures an obligation.

21 (21) "Consignor" means a person that delivers goods to a consignee in a consignment.

22 (22) "Consumer debtor" means a debtor in a consumer transaction.

23 (23) "Consumer goods" means goods that are used or bought for use primarily for
24 personal, family, or household purposes.

- 1 (24) "Consumer-goods transaction" means a consumer transaction in which:
- 2 (A) An individual incurs an obligation primarily for personal, family, or household
- 3 purposes; and
- 4 (B) A security interest in consumer goods secures the obligation.
- 5 (25) "Consumer obligor" means an obligor who is an individual and who incurred the
- 6 obligation as part of a transaction entered into primarily for personal, family, or
- 7 household purposes.
- 8 (26) "Consumer transaction" means a transaction in which (i) an individual incurs an
- 9 obligation primarily for personal, family, or household purposes, (ii) a security
- 10 interest secures the obligation, and (iii) the collateral is held or acquired primarily for
- 11 personal, family, or household purposes. The term includes consumer-goods
- 12 transactions.
- 13 (27) "Continuation statement" means an amendment of a financing statement which:
- 14 (A) Identifies, by its file number, the initial financing statement to which it relates;
- 15 and
- 16 (B) Indicates that it is a continuation statement for, or that it is filed to continue
- 17 the effectiveness of, the identified financing statement.
- 18 (28) "Debtor" means:
- 19 (A) A person having an interest, other than a security interest or other lien, in the
- 20 collateral, whether or not the person is an obligor;
- 21 (B) A seller of accounts, chattel paper, payment intangibles, or promissory notes;
- 22 or
- 23 (C) A consignee.
- 24 (29) "Deposit account" means a demand, time, savings, passbook, or similar account

1 maintained with a bank. The term does not include investment property or accounts
2 evidenced by an instrument.

3 (30) "Document" means a document of title or a receipt of the type described in § 57A-7-
4 201(b).

5 (31) "Electronic chattel paper" means chattel paper evidenced by a record or records
6 consisting of information stored in an electronic medium.

7 (32) "Encumbrance" means a right, other than an ownership interest, in real property. The
8 term includes mortgages and other liens on real property.

9 (33) "Equipment" means goods other than inventory, farm products, or consumer goods.

10 (34) "Farm products" means goods, other than standing timber, with respect to which the
11 debtor is engaged in a farming operation and which are:

12 (A) Crops grown, growing, or to be grown, including:

13 (i) Crops produced on trees, vines, and bushes; and

14 (ii) Aquatic goods produced in aquacultural operations;

15 (B) Livestock, born or unborn, including aquatic goods produced in aquacultural
16 operations;

17 (C) Supplies used or produced in a farming operation; or

18 (D) Products of crops or livestock in their unmanufactured states.

19 (35) "Farming operation" means raising, cultivating, propagating, fattening, grazing, or
20 any other farming, livestock, or aquacultural operation.

21 (36) "File number" means the number assigned to an initial financing statement pursuant
22 to § 57A-9-519(a).

23 (37) "Filing office" means an office designated in § 57A-9-501 as the place to file a
24 financing statement.

- 1 (38) "Filing-office rule" means a rule adopted pursuant to § 57A-9-526.
- 2 (39) "Financing statement" means a record or records composed of an initial financing
3 statement and any filed record relating to the initial financing statement.
- 4 (40) "Fixture filing" means the filing of a financing statement covering goods that are or
5 are to become fixtures and satisfying § 57A-9-502(a) and (b). The term includes the
6 filing of a financing statement covering goods of a transmitting utility which are or
7 are to become fixtures.
- 8 (41) "Fixtures" means goods that have become so related to particular real property that
9 an interest in them arises under real property law.
- 10 (42) "General intangible" means any personal property, including things in action, other
11 than accounts, chattel paper, commercial tort claims, deposit accounts, documents,
12 goods, instruments, investment property, letter-of-credit rights, letters of credit,
13 money, and oil, gas, or other minerals before extraction. The term includes payment
14 intangibles and software.
- 15 (43) ~~(Reserved.)~~ "Good faith" means honesty in fact and the observance of reasonable
16 commercial standards of fair dealing.
- 17 (44) "Goods" means all things that are movable when a security interest attaches. The
18 term includes (i) fixtures, (ii) standing timber that is to be cut and removed under a
19 conveyance or contract for sale, (iii) the unborn young of animals, (iv) crops grown,
20 growing, or to be grown, even if the crops are produced on trees, vines, or bushes,
21 and (v) manufactured homes. The term also includes a computer program embedded
22 in goods and any supporting information provided in connection with a transaction
23 relating to the program if (i) the program is associated with the goods in such a
24 manner that it customarily is considered part of the goods, or (ii) by becoming the

1 owner of the goods, a person acquires a right to use the program in connection with
2 the goods. The term does not include a computer program embedded in goods that
3 consist solely of the medium in which the program is embedded. The term also does
4 not include accounts, chattel paper, commercial tort claims, deposit accounts,
5 documents, general intangibles, instruments, investment property, letter-of-credit
6 rights, letters of credit, money, or oil, gas, or other minerals before extraction.

7 (45) "Governmental unit" means a subdivision, agency, department, county, parish,
8 municipality, or other unit of the government of the United States, a state, or a
9 foreign country. The term includes an organization having a separate corporate
10 existence if the organization is eligible to issue debt on which interest is exempt from
11 income taxation under the laws of the United States.

12 (46) "Health-care-insurance receivable" means an interest in or claim under a policy of
13 insurance which is a right to payment of a monetary obligation for health-care goods
14 or services provided.

15 (47) "Instrument" means a negotiable instrument or any other writing that evidences a
16 right to the payment of a monetary obligation, is not itself a security agreement or
17 lease, and is of a type that in ordinary course of business is transferred by delivery
18 with any necessary indorsement or assignment. The term does not include (i)
19 investment property, (ii) letters of credit, or (iii) writings that evidence a right to
20 payment arising out of the use of a credit or charge card or information contained on
21 or for use with the card.

22 (48) "Inventory" means goods, other than farm products, which:

23 (A) Are leased by a person as lessor;

24 (B) Are held by a person for sale or lease or to be furnished under a contract of

1 service;

2 (C) Are furnished by a person under a contract of service; or

3 (D) Consist of raw materials, work in process, or materials used or consumed in
4 a business.

5 (49) "Investment property" means a security, whether certificated or uncertificated,
6 security entitlement, securities account, commodity contract, or commodity account.

7 (50) "Jurisdiction of organization" with respect to a registered organization, means the
8 jurisdiction under whose law the organization is formed or organized.

9 (51) "Letter-of-credit right" means a right to payment or performance under a letter of
10 credit, whether or not the beneficiary has demanded or is at the time entitled to
11 demand payment or performance. The term does not include the right of a beneficiary
12 to demand payment or performance under a letter of credit.

13 (52) "Lien creditor" means:

14 (A) A creditor that has acquired a lien on the property involved by attachment,
15 levy, or the like;

16 (B) An assignee for benefit of creditors from the time of assignment;

17 (C) A trustee in bankruptcy from the date of the filing of the petition; or

18 (D) A receiver in equity from the time of appointment.

19 (53) "Manufactured home" means a structure, transportable in one or more sections,
20 which, in the traveling mode, is eight body feet or more in width or 40 body feet or
21 more in length, or, when erected on site, is 320 or more square feet, and which is
22 built on a permanent chassis and designed to be used as a dwelling with or without
23 a permanent foundation when connected to the required utilities, and includes the
24 plumbing, heating, air-conditioning, and electrical systems contained therein. The

1 term includes any structure that meets all of the requirements of this paragraph except
2 the size requirements and with respect to which the manufacturer voluntarily files a
3 certification required by the United States Secretary of Housing and Urban
4 Development and complies with the standards established under Title 42 of the
5 United States Code.

6 (54) "Manufactured-home transaction" means a secured transaction:

7 (A) That creates a purchase-money security interest in a manufactured home, other
8 than a manufactured home held as inventory; or

9 (B) In which a manufactured home, other than a manufactured home held as
10 inventory, is the primary collateral.

11 (55) "Mortgage" means a consensual interest in real property, including fixtures, which
12 secures payment or performance of an obligation.

13 (56) "New debtor" means a person that becomes bound as debtor under § 57A-9-203(d)
14 by a security agreement previously entered into by another person.

15 (57) "New value" means (i) money, (ii) money's worth in property, services, or new credit,
16 or (iii) release by a transferee of an interest in property previously transferred to the
17 transferee. The term does not include an obligation substituted for another obligation.

18 (58) "Noncash proceeds" means proceeds other than cash proceeds.

19 (59) "Obligor" means a person that, with respect to an obligation secured by a security
20 interest in or an agricultural lien on the collateral, (i) owes payment or other
21 performance of the obligation, (ii) has provided property other than the collateral to
22 secure payment or other performance of the obligation, or (iii) is otherwise
23 accountable in whole or in part for payment or other performance of the obligation.

24 The term does not include issuers or nominated persons under a letter of credit.

- 1 (60) "Original debtor," except as used in § 57A-9-310(c), means a person that, as debtor,
2 entered into a security agreement to which a new debtor has become bound under
3 § 57A-9-203(d).
- 4 (61) "Payment intangible" means a general intangible under which the account debtor's
5 principal obligation is a monetary obligation.
- 6 (62) "Person related to," with respect to an individual, means:
- 7 (A) The spouse of the individual;
- 8 (B) A brother, brother-in-law, sister, or sister-in-law of the individual;
- 9 (C) An ancestor or lineal descendant of the individual or the individual's spouse;
- 10 or
- 11 (D) Any other relative, by blood or marriage, of the individual or the individual's
12 spouse who shares the same home with the individual.
- 13 (63) "Person related to," with respect to an organization, means:
- 14 (A) A person directly or indirectly controlling, controlled by, or under common
15 control with the organization;
- 16 (B) An officer or director of, or a person performing similar functions with respect
17 to, the organization;
- 18 (C) An officer or director of, or a person performing similar functions with respect
19 to, a person described in subparagraph (A);
- 20 (D) The spouse of an individual described in subparagraph (A), (B), or (C); or
- 21 (E) An individual who is related by blood or marriage to an individual described
22 in subparagraph (A), (B), (C), or (D) and shares the same home with the
23 individual.
- 24 (64) "Proceeds," except as used in § 57A-9-609(b), means the following property:

- 1 (A) Whatever is acquired upon the sale, lease, license, exchange, or other
2 disposition of collateral;
- 3 (B) Whatever is collected on, or distributed on account of, collateral;
- 4 (C) Rights arising out of collateral;
- 5 (D) To the extent of the value of collateral, claims arising out of the loss,
6 nonconformity, or interference with the use of, defects or infringement of
7 rights in, or damage to, the collateral; or
- 8 (E) To the extent of the value of collateral and to the extent payable to the debtor
9 or the secured party, insurance payable by reason of the loss or nonconformity
10 of, defects or infringement of rights in, or damage to, the collateral.
- 11 (65) "Promissory note" means an instrument that evidences a promise to pay a monetary
12 obligation, does not evidence an order to pay, and does not contain an
13 acknowledgment by a bank that the bank has received for deposit a sum of money or
14 funds.
- 15 (66) "Proposal" means a record authenticated by a secured party which includes the terms
16 on which the secured party is willing to accept collateral in full or partial satisfaction
17 of the obligation it secures pursuant to §§ 57A-9-620, 57A-9-621, and 57A-9-622.
- 18 (67) "Public-finance transaction" means a secured transaction in connection with which:
19 (A) Debt or other securities are issued; and
20 (B) The debtor, obligor, secured party, account debtor or other person obligated
21 on collateral, assignor or assignee of a secured obligation, or assignor or
22 assignee of a security interest is a state or a governmental unit of a state.
- 23 (68) "Public organic record" means a record that is available to the public for inspection
24 and is:

1 (A) A record consisting of the record initially filed with or issued by a state or the
 2 United States to form or organize an organization and any record filed with or
 3 issued by the state or the United States which amends or restates the original
 4 record;

5 (B) An organic record of a business trust consisting of the record initially filed
 6 with a state and any record filed with the state which amends or restates the
 7 initial record, if a statute of the state governing business trusts requires that the
 8 record be filed with the state; or

9 (C) A record consisting of legislation enacted by the Legislature of a state or the
 10 Congress of the United States which forms or organizes an organization, any
 11 record amending the legislation, and any record filed with or issued by the
 12 state or the United States which amends or restates the name of the
 13 organization.

14 (69) "Pursuant to commitment," with respect to an advance made or other value given by
 15 a secured party, means pursuant to the secured party's obligation, whether or not a
 16 subsequent event of default or other event not within the secured party's control has
 17 relieved or may relieve the secured party from its obligation.

18 ~~(69)~~(70) "Record," except as used in "for record," "of record," "record or legal title,"
 19 and "record owner," means information that is inscribed on a tangible medium
 20 or which is stored in an electronic or other medium and is retrievable in
 21 perceivable form.

22 ~~(70)~~(71) "Registered organization" means an organization organized solely under the
 23 law of a single state or the United States ~~and as to which the state or the~~
 24 ~~United States must maintain a public record showing the organization to have~~

1 ~~been organized by the filing of a public organic record with, the issuance of~~
2 ~~a public organic record by, or the enactment of legislation by the state or the~~
3 ~~United States. The term includes a business trust that is formed or organized~~
4 ~~under the law of a single state if a statute of the state governing business trusts~~
5 ~~requires that the business trust's organic record be filed with the state.~~

6 ~~(71)(72)~~ "Secondary obligor" means an obligor to the extent that:

- 7 (A) The obligor's obligation is secondary; or
- 8 (B) The obligor has a right of recourse with respect to an obligation secured by
9 collateral against the debtor, another obligor, or property of either.

10 ~~(72)(73)~~ "Secured party" means:

- 11 (A) A person in whose favor a security interest is created or provided for under a
12 security agreement, whether or not any obligation to be secured is outstanding;
- 13 (B) A person that holds an agricultural lien;
- 14 (C) A consignor;
- 15 (D) A person to which accounts, chattel paper, payment intangibles, or promissory
16 notes have been sold;
- 17 (E) A trustee, indenture trustee, agent, collateral agent, or other representative in
18 whose favor a security interest or agricultural lien is created or provided for;
19 or
- 20 (F) A person that holds a security interest arising under §§ 57A-2-401, 57A-2-505,
21 57A-2-711(3), 57A-2A-508(5), 57A-4-210, or 57A-5-118.

22 ~~(73)(74)~~ "Security agreement" means an agreement that creates or provides for a
23 security interest.

24 ~~(74)(75)~~ "Send," in connection with a record or notification, means:

1 (A) To deposit in the mail, deliver for transmission, or transmit by any other usual
2 means of communication, with postage or cost of transmission provided for,
3 addressed to any address reasonable under the circumstances; or

4 (B) To cause the record or notification to be received within the time that it would
5 have been received if properly sent under subparagraph (A).

6 ~~(75)~~(76) "Software" means a computer program and any supporting information
7 provided in connection with a transaction relating to the program. The term
8 does not include a computer program that is included in the definition of
9 goods.

10 ~~(76)~~(77) "State" means a state of the United States, the District of Columbia, Puerto
11 Rico, the United States Virgin Islands, or any territory or insular possession
12 subject to the jurisdiction of the United States.

13 ~~(77)~~(78) "Supporting obligation" means a letter-of-credit right or secondary obligation
14 that supports the payment or performance of an account, chattel paper, a
15 document, a general intangible, an instrument, or investment property.

16 ~~(78)~~(79) "Tangible chattel paper" means chattel paper evidenced by a record or records
17 consisting of information that is inscribed on a tangible medium.

18 ~~(79)~~(80) "Termination statement" means an amendment of a financing statement which:

19 (A) Identifies, by its file number, the initial financing statement to which it relates;
20 and

21 (B) Indicates either that it is a termination statement or that the identified
22 financing statement is no longer effective.

23 ~~(80)~~(81) "Transmitting utility" means a person primarily engaged in the business of:

24 (A) Operating a railroad, subway, street railway, or trolley bus;

- 1 (B) Transmitting communications electrically, electromagnetically, or by light;
- 2 (C) Transmitting goods by pipeline or sewer; or
- 3 (D) Transmitting or producing and transmitting electricity, steam, gas, or water.

4 (b) The following definitions in other sections apply to this chapter:

5 "Applicant." § 57A-5-102.

6 "Broker." § 57A-8-102.

7 "Certificated security." § 57A-8-102.

8 "Check." § 57A-3-104.

9 "Clearing corporation." § 57A-8-102.

10 "Contract for sale." § 57A-2-106.

11 "Control" (with respect to a document of title) § 57A-7-106.

12 "Customer." § 57A-4-104.

13 "Entitlement holder." § 57A-8-102.

14 "Financial asset." § 57A-8-102.

15 "Holder in due course." § 57A-3-302.

16 "Issuer" (with respect to a letter of credit or letter-of-credit right). § 57A-5-102.

17 "Issuer" (with respect to a security). § 57A-8-201.

18 "Lease." § 57A-2A-103.

19 "Lease agreement." § 57A-2A-103.

20 "Lease contract." § 57A-2A-103.

21 "Leasehold interest." § 57A-2A-103.

22 "Lessee." § 57A-2A-103.

23 "Lessee in ordinary course of business." § 57A-2A-103.

24 "Lessor." § 57A-2A-103.

1 "Lessor's residual interest." § 57A-2A-103.

2 "Letter of credit." § 57A-5-102.

3 "Merchant." § 57A-2-104.

4 "Negotiable instrument." § 57A-3-104.

5 "Nominated person." § 57A-5-102.

6 "Note." § 57A-3-104.

7 "Proceeds of a letter of credit." § 57A-5-114.

8 "Prove." § 57A-3-103.

9 "Sale." § 57A-2-106.

10 "Securities account." § 57A-8-501.

11 "Securities intermediary." § 57A-8-102.

12 "Security." § 57A-8-102.

13 "Security certificate." § 57A-8-102.

14 "Security entitlement." § 57A-8-102.

15 "Uncertificated security." § 57A-8-102.

16 (c) SDCL chapter 57A-1 contains general definitions and principles of construction and
17 interpretation applicable throughout this chapter.

18 Section 2. That § 57A-9-105 be amended to read as follows:

19 57A-9-105. (a) A secured party has control of electronic chattel paper if a system employed
20 for evidencing the transfer of interests in the chattel paper reliably establishes the secured party
21 as the person to which the chattel paper was assigned.

22 (b) A system satisfies subsection (a) and a secured party has control of electronic chattel
23 paper, if the record or records comprising the chattel paper are created, stored, and assigned in
24 such a manner that:

- 1 (1) A single authoritative copy of the record or records exists which is unique,
2 identifiable and, except as otherwise provided in paragraphs (4), (5), and (6),
3 unalterable;
- 4 (2) The authoritative copy identifies the secured party as the assignee of the record or
5 records;
- 6 (3) The authoritative copy is communicated to and maintained by the secured party or
7 its designated custodian;
- 8 (4) Copies or ~~revisions~~ amendments that add or change an identified assignee of the
9 authoritative copy can be made only with the ~~participation~~ consent of the secured
10 party;
- 11 (5) Each copy of the authoritative copy and any copy of a copy is readily identifiable as
12 a copy that is not the authoritative copy; and
- 13 (6) Any ~~revision~~ amendment of the authoritative copy is readily identifiable as an
14 authorized or unauthorized ~~revision~~.

15 Section 3. That § 57A-9-307 be amended to read as follows:

16 57A-9-307. (a) In this section, "place of business" means a place where a debtor conducts
17 its affairs.

18 (b) Except as otherwise provided in this section, the following rules determine a debtor's
19 location:

- 20 (1) A debtor who is an individual is located at the individual's principal residence.
- 21 (2) A debtor that is an organization and has only one place of business is located at its
22 place of business.
- 23 (3) A debtor that is an organization and has more than one place of business is located
24 at its chief executive office.

1 (c) Subsection (b) applies only if a debtor's residence, place of business, or chief executive
2 office, as applicable, is located in a jurisdiction whose law generally requires information
3 concerning the existence of a nonpossessory security interest to be made generally available in
4 a filing, recording, or registration system as a condition or result of the security interest's
5 obtaining priority over the rights of a lien creditor with respect to the collateral. If subsection
6 (b) does not apply, the debtor is located in the District of Columbia.

7 (d) A person that ceases to exist, have a residence, or have a place of business continues to
8 be located in the jurisdiction specified by subsections (b) and (c).

9 (e) A registered organization that is organized under the law of a state is located in that state.

10 (f) Except as otherwise provided in subsection (i), a registered organization that is organized
11 under the law of the United States and a branch or agency of a bank that is not organized under
12 the law of the United States or a State are located:

13 (1) In the state that the law of the United States designates, if the law designates a state
14 of location;

15 (2) In the state that the registered organization, branch, or agency designates, if the law
16 of the United States authorizes the registered organization, branch, or agency to
17 designate its state of location, including by designating its main office, home office,
18 or other comparable office; or

19 (3) In the District of Columbia, if neither paragraph (1) nor paragraph (2) applies.

20 (g) A registered organization continues to be located in the jurisdiction specified by
21 subsection (e) or (f) notwithstanding:

22 (1) The suspension, revocation, forfeiture, or lapse of the registered organization's status
23 as such in its jurisdiction of organization; or

24 (2) The dissolution, winding up, or cancellation of the existence of the registered

1 organization.

2 (h) The United States is located in the District of Columbia.

3 (i) A branch or agency of a bank that is not organized under the law of the United States or
4 a state is located in the state in which the branch or agency is licensed, if all branches and
5 agencies of the bank are licensed in only one state.

6 (j) A foreign air carrier under the Federal Aviation Act of 1958, as amended, is located at
7 the designated office of the agent upon which service of process may be made on behalf of the
8 carrier.

9 (k) This section applies only for purposes of this part.

10 Section 4. That § 57A-9-311 be amended to read as follows:

11 57A-9-311. (a) Except as otherwise provided in subsection (d), the filing of a financing
12 statement is not necessary or effective to perfect a security interest in property subject to:

13 (1) A statute, regulation, or treaty of the United States whose requirements for a security
14 interest's obtaining priority over the rights of a lien creditor with respect to the
15 property preempt § 57A-9-310(a);

16 (2) A certificate-of-title statute of this state under the law of which indication of a
17 security interest on the certificate of title is required as a condition of perfection; or

18 (3) A ~~certificate-of-title~~ statute of another jurisdiction which provides for a security
19 interest to be indicated on ~~the~~ a certificate of title as a condition or result of the
20 security interest's obtaining priority over the rights of a lien creditor with respect to
21 the property.

22 (b) Compliance with the requirements of a statute, regulation, or treaty described in
23 subsection (a) for obtaining priority over the rights of a lien creditor is equivalent to the filing
24 of a financing statement under this article. Except as otherwise provided in subsection (d) and

1 §§ 57A-9-313 and 57A-9-316(d) and (e) for goods covered by a certificate of title, a security
2 interest in property subject to a statute, regulation, or treaty described in subsection (a) may be
3 perfected only by compliance with those requirements, and a security interest so perfected
4 remains perfected notwithstanding a change in the use or transfer of possession of the collateral.

5 (c) Except as otherwise provided in subsection (d) and § 57A-9-316(d) and (e), duration and
6 renewal of perfection of a security interest perfected by compliance with the requirements
7 prescribed by a statute, regulation, or treaty described in subsection (a) are governed by the
8 statute, regulation, or treaty. In other respects, the security interest is subject to this article.

9 (d) During any period in which collateral subject to a statute specified in subsection (a)(2)
10 is inventory held for sale or lease by a person or leased by that person as lessor and that person
11 is in the business of selling goods of that kind, this section does not apply to a security interest
12 in that collateral created by that person.

13 Section 5. That § 57A-9-316 be amended to read as follows:

14 57A-9-316. (a) A security interest perfected pursuant to the law of the jurisdiction
15 designated in § 57A-9-301(1) or 57A-9-305(c) remains perfected until the earliest of:

- 16 (1) The time perfection would have ceased under the law of that jurisdiction;
17 (2) The expiration of four months after a change of the debtor's location to another
18 jurisdiction; or
19 (3) The expiration of one year after a transfer of collateral to a person that thereby
20 becomes a debtor and is located in another jurisdiction.

21 (b) If a security interest described in subsection (a) becomes perfected under the law of the
22 other jurisdiction before the earliest time or event described in that subsection, it remains
23 perfected thereafter. If the security interest does not become perfected under the law of the other
24 jurisdiction before the earliest time or event, it becomes unperfected and is deemed never to

1 have been perfected as against a purchaser of the collateral for value.

2 (c) A possessory security interest in collateral, other than goods covered by a certificate of
3 title and as-extracted collateral consisting of goods, remains continuously perfected if:

4 (1) The collateral is located in one jurisdiction and subject to a security interest perfected
5 under the law of that jurisdiction;

6 (2) Thereafter the collateral is brought into another jurisdiction; and

7 (3) Upon entry into the other jurisdiction, the security interest is perfected under the law
8 of the other jurisdiction.

9 (d) Except as otherwise provided in subsection (e), a security interest in goods covered by
10 a certificate of title which is perfected by any method under the law of another jurisdiction when
11 the goods become covered by a certificate of title from this State remains perfected until the
12 security interest would have become unperfected under the law of the other jurisdiction had the
13 goods not become so covered.

14 (e) A security interest described in subsection (d) becomes unperfected as against a
15 purchaser of the goods for value and is deemed never to have been perfected as against a
16 purchaser of the goods for value if the applicable requirements for perfection under § 57A-9-
17 311(b) or 57A-9-313 are not satisfied before the earlier of:

18 (1) The time the security interest would have become unperfected under the law of the
19 other jurisdiction had the goods not become covered by a certificate of title from this
20 state; or

21 (2) The expiration of four months after the goods had become so covered.

22 (f) A security interest in deposit accounts, letter-of-credit rights, or investment property
23 which is perfected under the law of the bank's jurisdiction, the issuer's jurisdiction, a nominated
24 person's jurisdiction, the securities intermediary's jurisdiction, or the commodity intermediary's

1 jurisdiction, as applicable, remains perfected until the earlier of:

- 2 (1) The time the security interest would have become unperfected under the law of that
- 3 jurisdiction; or
- 4 (2) The expiration of four months after a change of the applicable jurisdiction to another
- 5 jurisdiction.

6 (g) If a security interest described in subsection (f) becomes perfected under the law of the
7 other jurisdiction before the earlier of the time or the end of the period described in that
8 subsection, it remains perfected thereafter. If the security interest does not become perfected
9 under the law of the other jurisdiction before the earlier of that time or the end of that period,
10 it becomes unperfected and is deemed never to have been perfected as against a purchaser of the
11 collateral for value.

12 (h) The following rules apply to collateral to which a security interest attaches within four
13 months after the debtor changes its location to another jurisdiction:

- 14 (1) A financing statement filed before the change pursuant to the law of the jurisdiction
15 designated in § 57A-9-301(1) or 57A-9-305(c) is effective to perfect a security
16 interest in the collateral if the financing statement would have been effective to
17 perfect a security interest in the collateral had the debtor not changed its location;
- 18 (2) If a security interest perfected by a financing statement that is effective under
19 paragraph (1) becomes perfected under the law of the other jurisdiction before the
20 earlier of the time the financing statement would have become ineffective under the
21 law of the jurisdiction designated in § 57A-9-301(1) or 57A-9-305(c) or the
22 expiration of the four-month period, it remains perfected thereafter. If the security
23 interest does not become perfected under the law of the other jurisdiction before the
24 earlier time or event, it becomes unperfected and is deemed never to have been

1 perfected as against a purchaser of the collateral for value.

2 (i) If a financing statement naming an original debtor is filed pursuant to the law of the
3 jurisdiction designated in § 57A-9-301(1) or 57A-9-305(c) and the new debtor is located in
4 another jurisdiction, the following rules apply:

5 (1) The financing statement is effective to perfect a security interest in collateral in
6 which the new debtor has or acquires rights before or within four months after the
7 new debtor becomes bound under § 57A-9-203(d), if the financing statement would
8 have been effective to perfect a security interest in the collateral if the collateral been
9 acquired by the original debtor.

10 (2) A security interest perfected by the financing statement and which becomes perfected
11 under the law of the other jurisdiction before the earlier of the expiration of the four-
12 month period or the time the financing statement would have become ineffective
13 under the law of the jurisdiction designated in § 57A-9-301(1) or 57A-9-305(c)
14 remains perfected thereafter. A security interest that is perfected by the financing
15 statement but which does not become perfected under the law of the other
16 jurisdiction before the earlier time or event becomes unperfected and is deemed never
17 to have been perfected as against a purchaser of the collateral for value.

18 Section 6. That § 57A-9-317 be amended to read as follows:

19 57A-9-317. (a) A security interest or agricultural lien is subordinate to the rights of:

20 (1) A person entitled to priority under § 57A-9-322; and

21 (2) Except as otherwise provided in subsection (e), a person that becomes a lien creditor
22 before the earlier of the time:

23 (A) The security interest or agricultural lien is perfected; or

24 (B) One of the conditions specified in § 57A-9-203(b)(3) is met and a financing

1 statement covering the collateral is filed.

2 (b) Except as otherwise provided in subsection (e), a buyer, other than a secured party, of
3 tangible chattel paper, tangible documents, goods, instruments, or a certified security certificate
4 takes free of a security interest or agricultural lien if the buyer gives value and receives delivery
5 of the collateral without knowledge of the security interest or agricultural lien and before it is
6 perfected.

7 (c) Except as otherwise provided in subsection (e), a lessee of goods takes free of a security
8 interest or agricultural lien if the lessee gives value and receives delivery of the collateral
9 without knowledge of the security interest or agricultural lien and before it is perfected.

10 (d) A licensee of a general intangible or a buyer, other than a secured party, of ~~accounts;~~
11 ~~electronic chattel paper, electronic documents, general intangibles, or investment property~~
12 collateral other than tangible chattel paper, tangible documents, goods, instruments, or a
13 certificated security takes free of a security interest if the licensee or buyer gives value without
14 knowledge of the security interest and before it is perfected.

15 (e) Except as otherwise provided in § 57A-9-320 and 57A-9-321, if a person files a
16 financing statement with respect to a purchase-money security interest before or within 20 days
17 after the debtor receives delivery of the collateral, the security interest takes priority over the
18 rights of a buyer, lessee, or lien creditor which arise between the time the security interest
19 attaches and the time of filing.

20 Section 7. That § 57A-9-326 be amended to read as follows:

21 57A-9-326. (a) Subject to subsection (b), a security interest that is created by a new debtor
22 ~~which is~~ in collateral in which the new debtor has or acquires rights and is perfected by a filed
23 financing statement that is ~~effective solely under § 57A-9-508 in collateral in which a new~~
24 ~~debtor has or acquires rights~~ would be ineffective to perfect the security interest but for the

1 application of § 57A-9-508 or §§ 57A-9-508 and 57A-9-316(i)(1) is subordinate to a security
2 interest in the same collateral which is perfected other than by a filed financing statement that
3 is effective solely under § 57A-9-508.

4 (b) The other provisions of this part determine the priority among conflicting security
5 interests in the same collateral perfected by filed financing statements ~~that are effective solely~~
6 ~~under § 57A-9-508~~ described in subsection (a). However, if the security agreements to which
7 a new debtor became bound as debtor were not entered into by the same original debtor, the
8 conflicting security interests rank according to priority in time of the new debtor's having
9 become bound.

10 Section 8. That § 57A-9-406 be amended to read as follows:

11 57A-9-406. (a) Subject to subsections (b) through (i), an account debtor on an account,
12 chattel paper, or a payment intangible may discharge its obligation by paying the assignor until,
13 but not after, the account debtor receives a notification, authenticated by the assignor or the
14 assignee, that the amount due or to become due has been assigned and that payment is to be
15 made to the assignee. After receipt of the notification, the account debtor may discharge its
16 obligation by paying the assignee and may not discharge the obligation by paying the assignor.

17 (b) Subject to subsection (h), notification is ineffective under subsection (a):

- 18 (1) If it does not reasonably identify the rights assigned;
- 19 (2) To the extent that an agreement between an account debtor and a seller of a payment
20 intangible limits the account debtor's duty to pay a person other than the seller and
21 the limitation is effective under law other than this article; or
- 22 (3) At the option of an account debtor, if the notification notifies the account debtor to
23 make less than the full amount of any installment or other periodic payment to the
24 assignee, even if:

1 (A) Only a portion of the account, chattel paper, or payment intangible has been
2 assigned to that assignee;

3 (B) A portion has been assigned to another assignee; or

4 (C) The account debtor knows that the assignment to that assignee is limited.

5 (c) Subject to subsection (h), if requested by the account debtor, an assignee shall seasonably
6 furnish reasonable proof that the assignment has been made. Unless the assignee complies, the
7 account debtor may discharge its obligation by paying the assignor, even if the account debtor
8 has received a notification under subsection (a).

9 (d) Except as otherwise provided in subsection (e) and §§ 57A-2A-303 and 57A-9-407, and
10 subject to subsection (h), a term in an agreement between an account debtor and an assignor or
11 in a promissory note is ineffective to the extent that it:

12 (1) Prohibits, restricts, or requires the consent of the account debtor or person obligated
13 on the promissory note to the assignment or transfer of, or the creation, attachment,
14 perfection, or enforcement of a security interest in, the account, chattel paper,
15 payment intangible, or promissory note; or

16 (2) Provides that the assignment or transfer or the creation, attachment, perfection, or
17 enforcement of the security interest may give rise to a default, breach, right of
18 recoupment, claim, defense, termination, right of termination, or remedy under the
19 account, chattel paper, payment intangible, or promissory note.

20 (e) Subsection (d) does not apply to the sale of a payment intangible or promissory note
21 other than a sale pursuant to a disposition under § 57A-9-610 or an acceptance of collateral
22 under § 57A-9-620.

23 (f) Except as otherwise provided in §§ 57A-2A-303 and 57A-9-407 and subject to
24 subsections (h) and (i), a rule of law, statute, or regulation that prohibits, restricts, or requires

1 the consent of a government, governmental body or official, or account debtor to the assignment
2 or transfer of, or creation of a security interest in, an account or chattel paper is ineffective to
3 the extent that the rule of law, statute, or regulation:

4 (1) Prohibits, restricts, or requires the consent of the government, governmental body or
5 official, or account debtor to the assignment or transfer of, or the creation,
6 attachment, perfection, or enforcement of a security interest in the account or chattel
7 paper; or

8 (2) Provides that the assignment or transfer or the creation, attachment, perfection, or
9 enforcement of the security interest may give rise to a default, breach, right of
10 recoupment, claim, defense, termination, right of termination, or remedy under the
11 account or chattel paper.

12 (g) Subject to subsection (h), an account debtor may not waive or vary its option under
13 subsection (b)(3).

14 (h) This section is subject to law other than this article which establishes a different rule for
15 an account debtor who is an individual and who incurred the obligation primarily for personal,
16 family, or household purposes.

17 (i) This section does not apply to an assignment of a health-care-insurance receivable.

18 (j) This section prevails over any inconsistent statute.

19 Section 9. That § 57A-9-408 be amended to read as follows:

20 57A-9-408. (a) Except as otherwise provided in subsection (b), a term in a promissory note
21 or in an agreement between an account debtor and a debtor which relates to a
22 health-care-insurance receivable or a general intangible, including a contract, permit, license,
23 or franchise, and which term prohibits, restricts, or requires the consent of the person obligated
24 on the promissory note or the account debtor to, the assignment or transfer of, or creation,

1 attachment, or perfection of a security interest in, the promissory note, health-care-insurance
2 receivable, or general intangible, is ineffective to the extent that the term:

3 (1) Would impair the creation, attachment, or perfection of a security interest; or

4 (2) Provides that the assignment or transfer or the creation, attachment, or perfection of
5 the security interest may give rise to a default, breach, right of recoupment, claim,
6 defense, termination, right of termination, or remedy under the promissory note,
7 health-care-insurance receivable, or general intangible.

8 (b) Subsection (a) applies to a security interest in a payment intangible or promissory note
9 only if the security interest arises out of a sale of the payment intangible or promissory note,
10 other than a sale pursuant to a disposition under § 57A-9-610 or an acceptance of collateral
11 under § 57A-9-620.

12 (c) A rule of law, statute, or regulation that prohibits, restricts, or requires the consent of a
13 government, governmental body or official, person obligated on a promissory note, or account
14 debtor to the assignment or transfer of, or creation of a security interest in, a promissory note,
15 health-care-insurance receivable, or general intangible, including a contract, permit, license, or
16 franchise between an account debtor and a debtor, is ineffective to the extent that the rule of
17 law, statute, or regulation:

18 (1) Would impair the creation, attachment, or perfection of a security interest; or

19 (2) Provides that the assignment or transfer or the creation, attachment, or perfection of
20 the security interest may give rise to a default, breach, right of recoupment, claim,
21 defense, termination, right of termination, or remedy under the promissory note,
22 health-care-insurance receivable, or general intangible.

23 (d) To the extent that a term in a promissory note or in an agreement between an account
24 debtor and a debtor which relates to a health-care-insurance receivable or general intangible or

1 a rule of law, statute, or regulation described in subsection (c) would be effective under law
2 other than this article but is ineffective under subsection (a) or (c), the creation, attachment, or
3 perfection of a security interest in the promissory note, health-care-insurance receivable, or
4 general intangible:

5 (1) Is not enforceable against the person obligated on the promissory note or the account
6 debtor;

7 (2) Does not impose a duty or obligation on the person obligated on the promissory note
8 or the account debtor;

9 (3) Does not require the person obligated on the promissory note or the account debtor
10 to recognize the security interest, pay or render performance to the secured party, or
11 accept payment or performance from the secured party;

12 (4) Does not entitle the secured party to use or assign the debtor's rights under the
13 promissory note, health-care-insurance receivable, or general intangible, including
14 any related information or materials furnished to the debtor in the transaction giving
15 rise to the promissory note, health-care-insurance receivable, or general intangible;

16 (5) Does not entitle the secured party to use, assign, possess, or have access to any trade
17 secrets or confidential information of the person obligated on the promissory note or
18 the account debtor; and

19 (6) Does not entitle the secured party to enforce the security interest in the promissory
20 note, health-care-insurance receivable, or general intangible.

21 (e) This section prevails over any inconsistent statute.

22 Section 10. That § 57A-9-502 be amended to read as follows:

23 57A-9-502. (a) Subject to subsection (b), a financing statement is sufficient only if it:

24 (1) Provides the name of the debtor and either the social security number or the internal

1 revenue service taxpayer identification number of the debtor;

2 (2) Provides the name of the secured party or a representative of the secured party; and

3 (3) Indicates the collateral covered by the financing statement.

4 (b) Except as otherwise provided in § 57A-9-501(b), to be sufficient, a financing statement
5 that covers as-extracted collateral or timber to be cut, or which is filed as a fixture filing and
6 covers goods that are or are to become fixtures, must satisfy subsection (a) and also:

7 (1) Indicate that it covers this type of collateral;

8 (2) Indicate that it is to be filed for record in the real property records;

9 (3) Provide a description of the real property to which the collateral is related sufficient
10 to give constructive notice of a mortgage under the law of this State if the description
11 were contained in a record of the mortgage of the real property. A financing
12 statement covering timber to be cut or covering minerals or the like (including oil and
13 gas) or accounts subject to § 57A-9-301, or a financing statement filed as a fixture
14 filing where the debtor is not a transmitting utility, must show that it covers this type
15 of collateral, must recite that it is to be filed for record in the real estate records, and
16 the financing statement must contain a description of the real estate sufficient if it
17 were contained in a mortgage of the real estate to give constructive notice of the
18 mortgage under the law of this state. If the debtor does not have an interest of record
19 in the real estate, the financing statement must show the name of a record owner. No
20 description of the real estate or the name of the record owner thereof is required for
21 a fixture filing where the debtor is a transmitting utility; and

22 (4) If the debtor does not have an interest of record in the real property, provide the name
23 of a record owner.

24 (c) A record of a mortgage is effective, from the date of recording, as a financing statement

1 filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to
2 be cut only if:

3 (1) The record indicates the goods or accounts that it covers;

4 (2) The goods are or are to become fixtures related to the real property described in the
5 record or the collateral is related to the real property described in the record and is
6 as-extracted collateral or timber to be cut;

7 (3) The record satisfies the requirements for a financing statement in this section ~~other~~
8 ~~than an indication, but:~~

9 (A) The record need not indicate that it is to be filed in the real property records;
10 and

11 (B) The record sufficiently provides the name of a debtor who is an individual if
12 it provides the individual name of the debtor or the surname and first personal
13 name of the debtor, even if the debtor is an individual to whom § 57A-9-
14 503(a)(4) applies; and

15 (4) The record is recorded.

16 (d) A financing statement may be filed before a security agreement is made or a security
17 interest otherwise attaches.

18 Section 11. That § 57A-9-503 be amended to read as follows:

19 57A-9-503. (a) A financing statement sufficiently provides the name of the debtor:

20 (1) ~~If~~ Except as otherwise provided in paragraph (3), if the debtor is a registered
21 organization or the collateral is held in a trust that is a registered organization, only
22 if the financing statement provides the name of the debtor indicated that is stated to
23 be the registered organization's name on the public organic record of most recently
24 filed with or issued or enacted by the debtor's registered organization's jurisdiction

1 of organization which ~~shows the debtor to have been organized~~ purports to state,
2 amend, or restate the registered organization's name;

3 (2) ~~If Subject to subsection (f), if the debtor is a decedent's estate~~ collateral is being
4 administered by the personal representative of a decedent, only if the financing
5 statement provides, as the name of the debtor, the name of the decedent and, in a
6 separate part of the financing statement, indicates that the debtor is an estate
7 collateral is being administered by a personal representative;

8 (3) If the debtor is a trust or a trustee acting with respect to property held in trust, only
9 if the financing statement:

10 ~~(A) Provides the name specified for the trust in its organic documents or, if no~~
11 ~~name is specified, provides the name of the settlor and additional information~~
12 ~~sufficient to distinguish the debtor from other trusts having one or more of the~~
13 ~~same settlors, and~~

14 ~~(B) Indicates, in the debtor's name or otherwise, that the debtor is a trust or is a~~
15 ~~trustee acting with respect to property held in trust~~ collateral is held in a trust
16 that is not a registered organization, only if the financing statement:

17 (A) Provides, as the name of the debtor:

18 (i) If the organic record of the trust specifies a name for the trust, the name
19 so specified; or

20 (ii) If the organic record of the trust does not specify a name for the trust,
21 the name of the settlor or testator; and

22 (B) In a separate part of the financing statement:

23 (i) If the name is provided in accordance with subparagraph (A)(i),
24 indicates that the collateral is held in a trust; or

1 (ii) If the name is provided in accordance with subparagraph (A)(ii),
 2 provides additional information sufficient to distinguish the trust from
 3 other trusts having one or more of the same settlors or the same testator
 4 and indicates that the collateral is held in a trust, unless the additional
 5 information so indicates;

6 (4) Subject to subsection (g), if the debtor is an individual to whom this state has issued
 7 a driver license that has not expired, only if it provides the name of the individual
 8 which is indicated on the driver license;

9 (5) If the debtor is an individual to whom paragraph (4) does not apply, only if it
 10 provides the individual name of the debtor or the surname and first personal name of
 11 the debtor; and

12 ~~(4)~~ (6) In other cases:

13 (A) If the debtor has a name, only if provides the ~~individual or~~ organizational
 14 name of the debtor; and

15 (B) If the debtor does not have a name, only if it provides the names of the
 16 partners, members, associates, or other persons comprising the debtor in a
 17 manner that each name provided would be sufficient if the person named were
 18 the debtor.

19 (b) A financing statement that provides the name of the debtor in accordance with subsection
 20 (a) is not rendered ineffective by the absence of:

21 (1) A trade name or other name of the debtor; or

22 (2) Unless required under subsection ~~(a)(4)(B)~~ (a)(6)(B), names of partners, members,
 23 associates, or other persons comprising the debtor.

24 (c) A financing statement that provides only the debtor's trade name does not sufficiently

1 provide the name of the debtor.

2 (d) Failure to indicate the representative capacity of a secured party or representative of a
3 secured party does not affect the sufficiency of a financing statement.

4 (e) A financing statement may provide the name of more than one debtor and the name of
5 more than one secured party.

6 (f) The name of the decedent indicated on the order appointing the personal representative
7 of the decedent issued by the court having jurisdiction over the collateral is sufficient as the
8 "name of the decedent" under subsection (a)(2).

9 (g) If this state has issued to an individual more than one driver license of a kind described
10 in subsection (a)(4), the one that was issued most recently is the one to which subsection (a)(4)
11 refers.

12 (h) In this section, the "name of the settlor or testator" means:

13 (1) If the settlor is a registered organization, the name of the registered organization
14 indicated on the public organic record filed with or enacted by the registered
15 organization; or

16 (2) In other cases, the name of the settlor or testator indicated in the trust's organic
17 record.

18 Section 12. That § 57A-9-507 be amended to read as follows:

19 57A-9-507. (a) A filed financing statement remains effective with respect to collateral that
20 is sold, exchanged, leased, licensed, or otherwise disposed of and in which a security interest
21 or agricultural lien continues, even if the secured party knows of or consents to the disposition.

22 (b) Except as otherwise provided in subsection (c) and § 57A-9-508, a financing statement
23 is not rendered ineffective if, after the financing statement is filed, the information provided in
24 the financing statement becomes seriously misleading under § 57A-9-506.

1 (c) If a ~~debtor so changes its~~ the name that a filed financing statement provides for a debtor
2 becomes insufficient as the name of the debtor under § 57A-9-503(a) so that the financing
3 statement becomes seriously misleading under § 57A-9-506:

4 (1) The financing statement is effective to perfect a security interest in collateral acquired
5 by the debtor before, or within four months after, the ~~change~~ filed financing
6 statement becomes seriously misleading; and

7 (2) The financing statement is not effective to perfect a security interest in collateral
8 acquired by the debtor more than four months after the ~~change~~ filed financing
9 statement becomes seriously misleading, unless an amendment to the financing
10 statement which renders the financing statement not seriously misleading is filed
11 within four months after ~~the change~~ that event.

12 Section 13. That § 57A-9-515 be amended to read as follows:

13 57A-9-515. (a) Except as otherwise provided in subsections (b), (e), (f), and (g), a filed
14 financing statement is effective for a period of five years after the date of filing. Financing
15 statements filed before July 1, 1997, are effective for a period of five years from the date of
16 filing and thereafter for a period of sixty days.

17 The expiration date established by a financing statement filed prior to July 1, 1997, whether
18 or not continued by a continuation statement shall remain in full force and effect and is not
19 diminished by any subsequent amendments to this chapter.

20 (b) Except as otherwise provided in subsections (e), (f), and (g), an initial financing
21 statement filed in connection with a manufactured-home transaction is effective for a period of
22 thirty years after the date of filing if it indicates that it is filed in connection with a
23 manufactured-home transaction.

24 (c) The effectiveness of a filed financing statement lapses on the expiration of the period of

1 its effectiveness unless before the lapse a continuation statement is filed pursuant to subsection
2 (d). Upon lapse, a financing statement ceases to be effective and any security interest or
3 agricultural lien that was perfected by the financing statement becomes unperfected, unless the
4 security interest is perfected otherwise. If the security interest or agricultural lien becomes
5 unperfected upon lapse, it is deemed never to have been perfected as against a purchaser of the
6 collateral for value.

7 (d) A continuation statement may be filed only within six months before the expiration of
8 the five-year period specified in subsection (a) or the thirty-year period specified in subsection
9 (b), whichever is applicable.

10 However, for financing statements filed before July 1, 1997, a continuation statement may
11 be filed within six months before and sixty days after the expiration of the five-year period.

12 (e) Except as otherwise provided in § 57A-9-510, upon timely filing of a continuation
13 statement, the effectiveness of the initial financing statement continues for a period of five years
14 and, for initial financing statements filed before July 1, 1997, the effectiveness of the initial
15 financing statement continues for a period of five years and sixty days, commencing on the day
16 on which the financing statement would have become ineffective in the absence of the filing.
17 Upon the expiration of the five-year period, the financing statement lapses in the same manner
18 as provided in subsection (c), unless, before the lapse, another continuation statement is filed
19 pursuant to subsection (d). Succeeding continuation statements may be filed in the same manner
20 to continue the effectiveness of the initial financing statement.

21 (f) If a debtor is a transmitting utility and a filed initial financing statement so indicates, the
22 financing statement is effective until a termination statement is filed.

23 (g) A record of a mortgage that is effective as a financing statement filed as a fixture filing
24 under § 57A-9-502(c) remains effective as a financing statement filed as a fixture filing until

1 the mortgage is released or satisfied of record or its effectiveness otherwise terminates as to the
2 real property.

3 Section 14. That § 57A-9-516 be amended to read as follows:

4 57A-9-516. (a) Except as otherwise provided in subsection (b), communication of a record
5 to a filing office and tender of the filing fee or acceptance of the record by the filing office
6 constitutes filing.

7 (b) Filing does not occur with respect to a record that a filing office refuses to accept
8 because:

9 (1) The record is not communicated by a method or medium of communication
10 authorized by the filing office;

11 (2) An amount equal to or greater than the applicable filing fee is not tendered;

12 (3) The filing office is unable to index the record because:

13 (A) In the case of an initial financing statement, the record does not provide a
14 name for the debtor;

15 (B) In the case of an amendment or ~~correction~~ information statement, the record:

16 (i) Does not identify the initial financing statement as required by § 57A-9-
17 512 or 57A-9-518, as applicable; or

18 (ii) Identifies an initial financing statement whose effectiveness has lapsed
19 under § 57A-9-515;

20 (C) In the case of an initial financing statement that provides the name of a debtor
21 identified as an individual or an amendment that provides a name of a debtor
22 identified as an individual which was not previously provided in the financing
23 statement to which the record relates, the record does not identify the debtor's
24 ~~last name~~ surname; or

1 (D) In the case of a record filed or recorded in the filing office described in § 57A-
2 9-501(a)(1), the record does not provide a sufficient description of the real
3 property to which it relates;

4 (4) In the case of an initial financing statement or an amendment that adds a secured
5 party of record, the record does not provide a name and mailing address for the
6 secured party of record;

7 (5) In the case of an initial financing statement or an amendment that provides a name
8 of a debtor which was not previously provided in the financing statement to which
9 the amendment relates, the record does not:

10 (A) Provide a mailing address for the debtor; or

11 (B) Indicate whether the name provided as the name of the debtor is the name of
12 an individual or an organization; ~~or~~

13 ~~(C) If the financing statement indicates that the debtor is an organization, provide:~~

14 ~~(i) A type of organization for the debtor;~~

15 ~~(ii) A jurisdiction of organization for the debtor; or~~

16 ~~(iii) An organizational identification number for the debtor or indicate that~~
17 ~~the debtor has none;~~

18 (6) In the case of an assignment reflected in an initial financing statement under § 57A-9-
19 514(a) or an amendment filed under § 57A-9-514(b), the record does not provide a
20 name and mailing address for the assignee; or

21 (7) In the case of a continuation statement, the record is not filed within the six-month
22 period prescribed by § 57A-9-515(d).

23 (c) For purposes of subsection (b):

24 (1) A record does not provide information if the filing office is unable to read or decipher

1 the information; and

2 (2) A record that does not indicate that it is an amendment or identify an initial financing
3 statement to which it relates, as required by § 57A-9-512, 57A-9-514, or 57A-9-518,
4 is an initial financing statement.

5 (d) A record that is communicated to the filing office with tender of the filing fee, but which
6 the filing office refuses to accept for a reason other than one set forth in subsection (b), is
7 effective as a filed record except as against a purchaser of the collateral which gives value in
8 reasonable reliance upon the absence of the record from the files.

9 Section 15. That § 57A-9-518 be amended to read as follows:

10 57A-9-518. (a) A person may file in the filing office ~~a correction~~ an information statement
11 with respect to a record indexed there under the person's name if the person believes that the
12 record is inaccurate or was wrongfully filed.

13 (b) ~~A correction~~ An information statement under subsection (a) must:

14 (1) Identify the record to which it relates by:

15 (A) The file number assigned to the initial financing statement to which the record
16 relates; and

17 (B) If the ~~correction~~ information statement relates to a record filed or recorded in
18 a filing office described in § 57A-9-501(a)(1), the date and time that the initial
19 financing statement was filed or recorded and the information specified in
20 § 57A-9-502(b);

21 (2) Indicate that it is ~~a correction~~ an information statement; and

22 (3) Provide the basis for the person's belief that the record is inaccurate and indicate the
23 manner in which the person believes the record should be amended to cure any
24 inaccuracy or provide the basis for the person's belief that the record was wrongfully

1 filed.

2 (c) A person may file in the filing office an information statement with respect to a record
3 filed there if the person is a secured party of record with respect to the financing statement to
4 which the record relates and believes that the person that filed the record was not entitled to do
5 so under § 57A-9-509(d).

6 (d) An information statement under subsection (c) must:

7 (1) Identify the record to which it relates by:

8 (a) The file number assigned to the initial financing statement to which the record
9 relates; and

10 (b) If the statement relates to a record filed or recorded in a filing office described
11 in § 57A-9-501(a)(1), the date and time that the initial financing statement was
12 filed or recorded and the information specified in § 57A-9-502(b);

13 (2) Indicate that it is an information statement; and

14 (3) Provide the basis for the person's belief that the person that filed the record was not
15 entitled to do so under § 57A-9-509(d).

16 (e) The filing of a ~~correction~~ an information statement does not affect the effectiveness of
17 an initial financing statement or other filed record.

18 Section 16. That § 57A-9-521 be amended to read as follows:

19 57A-9-521. (a) A filing office that accepts written records may not refuse to accept a written
20 initial financing statement in the following form and format except for a reason set forth in
21 § 57A-9-516(b).

1

UCC FINANCING STATEMENT ADDENDUM

FOLLOW INSTRUCTIONS

9. NAME OF FIRST DEBTOR: Same as line 1a or 1b on Financing Statement; if line 1b was left blank because individual Debtor name did not fit, check here

OR	9a. ORGANIZATION'S NAME	
	9b. INDIVIDUAL'S SURNAME	
	FIRST PERSONAL NAME	
	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

10. DEBTOR'S NAME: Provide (10a or 10b) only one additional Debtor name or Debtor name that did not fit in line 1b or 2b of the Financing Statement (Form UCC1) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name) and enter the mailing address in line 10c.

OR	10a. ORGANIZATION'S NAME			
	10b. INDIVIDUAL'S SURNAME			
	INDIVIDUAL'S FIRST PERSONAL NAME			
	INDIVIDUAL'S ADDITIONAL NAME(S)/INITIAL(S)			SUFFIX

10c. MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY
----------------------	------	-------	-------------	---------

11. ADDITIONAL SECURED PARTY'S NAME or ASSIGNOR SECURED PARTY'S NAME: Provide only one name (11a or 11b)

OR	11a. ORGANIZATION'S NAME			
	11b. INDIVIDUAL'S SURNAME			
	FIRST PERSONAL NAME			
	ADDITIONAL NAME(S)/INITIAL(S)			SUFFIX
11c. MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY

12. ADDITIONAL SPACE FOR ITEM 4 (Collateral):

13. This FINANCING STATEMENT is to be filed (for record) (or recorded) in the REAL ESTATE RECORDS (if applicable).
15. Name and address of a RECORD OWNER of real estate described in Item 16 (if Debtor does not have a record interest):

14. This FINANCING STATEMENT:
 covers trailer to be cut covers as-extracted collateral is filed as a fixture filing
16. Description of real estate:

17. MISCELLANEOUS:

2

- 1 (b) A filing office that accepts written records may not refuse to accept a written record in
- 2 the following form and format except for a reason set forth in § 57A-9-516(b).

UCC FINANCING STATEMENT AMENDMENT
FOLLOW INSTRUCTIONS

A. NAME & PHONE OF CONTACT AT FILER (optional)

B. E-MAIL CONTACT AT FILER (optional)

C. SEND ACKNOWLEDGMENT TO: (Name and Address)

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1a. INITIAL FINANCING STATEMENT FILE NUMBER

1b. This FINANCING STATEMENT AMENDMENT is to be filed (for record) (or recorded) in the REAL ESTATE RECORDS Filer - State Amendment A-State in Form UCC-3A-1 and provide Debtor's name in item 1a

2. **TERMINATION:** Effectiveness of the Financing Statement identified above is terminated with respect to the security interest(s) of Secured Party authorizing this Termination Statement

3. **ASSIGNMENT** (full or partial): Provide name of Assignee in item 7a or 7b, add address of Assignee in item 7c and name of Assignor in item 9. For partial assignment, complete items 7 and 9 and also indicate affected collateral in item 8

4. **CONTINUATION:** Effectiveness of the Financing Statement identified above with respect to the security interest(s) of Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law

5. **PARTY INFORMATION CHANGE:**
 Check one of these two boxes: Debtor or Secured Party of record **AND** Check one of these three boxes to: CHANGE name and/or address: Complete item 6a or 6b, and item 7a or 7b, and item 7c ADD name: Complete item 7a or 7b, and item 7c DELETE name: Give record name to be deleted in item 6a or 6b

6. **CURRENT RECORD INFORMATION:** Complete for Party Information Change - provide only one name (6a or 6b)

6a ORGANIZATION'S NAME

OR 6b INDIVIDUAL'S SURNAME FIRST PERSONAL NAME ADDITIONAL NAME(S) INITIAL(S) SUFFIX

7. **CHANGED OR ADDED INFORMATION:** Complete for Assignment or Party Information Change - provide only one name (7a or 7b) (use exact, full name, do not omit, modify, or abbreviate any part of the Debtor's name)

7a ORGANIZATION'S NAME

OR 7b INDIVIDUAL'S SURNAME INDIVIDUAL'S FIRST PERSONAL NAME INDIVIDUAL'S ADDITIONAL NAME(S) INITIAL(S) SUFFIX

7c. MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY

8. **COLLATERAL CHANGE:** Also check one of these four boxes: ADD collateral DELETE collateral RESTATE covered collateral ASSIGN collateral
 Indicate collateral:

9. **NAME OF SECURED PARTY OF RECORD AUTHORIZING THIS AMENDMENT:** Provide only one name (9a or 9b) (name of Assignor, if this is an Assignment). If this is an Amendment authorized by a DEBTOR, check here and provide name of authorizing Debtor

9a ORGANIZATION'S NAME

OR 9b INDIVIDUAL'S SURNAME FIRST PERSONAL NAME ADDITIONAL NAME(S) INITIAL(S) SUFFIX

10. **OPTIONAL FILER REFERENCE DATA:**

1

UCC FINANCING STATEMENT AMENDMENT ADDENDUM

FOLLOW INSTRUCTIONS

11. INITIAL FINANCING STATEMENT FILE NUMBER: Same as item 1a on Amendment form

12. NAME OF PARTY AUTHORIZING THIS AMENDMENT: Same as item 9 on Amendment form

12a. ORGANIZATION'S NAME
OR
12b. INDIVIDUAL'S SURNAME
FIRST PERSONAL NAME
ADDITIONAL NAME(S)INITIAL(S)
SUFFIX

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

13. Name of DEBTOR on related financing statement (Name of a current Debtor of record required for indexing purposes only in some filing offices - see instruction item 13) Provide only one Debtor name (13a or 13b) (use exact, full name, do not omit, modify, or abbreviate any part of the Debtor's name); see instructions if name does not fit

13a. ORGANIZATION'S NAME
OR
13b. INDIVIDUAL'S SURNAME
FIRST PERSONAL NAME
ADDITIONAL NAME(S)INITIAL(S)
SUFFIX

14. ADDITIONAL SPACE FOR ITEM 9 (Collateral)

<p>16. This FINANCING STATEMENT AMENDMENT</p> <p><input type="checkbox"/> covers timber to be cut <input type="checkbox"/> covers as-extracted collateral <input type="checkbox"/> is filed as a future filing</p> <p>16. Name and address of a RECORD OWNER of real estate described in item 17 (if Debtor does not have a record interest)</p>	<p>17. Description of real estate.</p>
--	---

18. MISCELLANEOUS:

2
3
4
5
6
7

Section 17. That § 57A-9-607 be amended to read as follows:

57A-9-607. (a) If so agreed, and in any event after default, a secured party:

- (1) May notify an account debtor or other person obligated on collateral to make payment or otherwise render performance to or for the benefit of the secured party;
- (2) May take any proceeds to which the secured party is entitled under § 57A-9-315;
- (3) May enforce the obligations of an account debtor or other person obligated on

1 collateral and exercise the rights of the debtor with respect to the obligation of the
2 account debtor or other person obligated on collateral to make payment or otherwise
3 render performance to the debtor, and with respect to any property that secures the
4 obligations of the account debtor or other person obligated on the collateral;

5 (4) If it holds a security interest in a deposit account perfected by control under § 57A-9-
6 104(a)(1), may apply the balance of the deposit account to the obligation secured by
7 the deposit account; and

8 (5) If it holds a security interest in a deposit account perfected by control under § 57A-9-
9 104(a)(2) or (3), may instruct the bank to pay the balance of the deposit account to
10 or for the benefit of the secured party.

11 (b) If necessary to enable a secured party to exercise under subsection (a)(3) the right of a
12 debtor to enforce a mortgage nonjudicially, the secured party may record in the office in which
13 a record of the mortgage is recorded:

14 (1) A copy of the security agreement that creates or provides for a security interest in the
15 obligation secured by the mortgage; and

16 (2) The secured party's sworn affidavit in recordable form stating that:

17 (A) A default has occurred with respect to the obligation secured by the mortgage;
18 and

19 (B) The secured party is entitled to enforce the mortgage nonjudicially.

20 (c) A secured party shall proceed in a commercially reasonable manner if the secured party:

21 (1) Undertakes to collect from or enforce an obligation of an account debtor or other
22 person obligated on collateral; and

23 (2) Is entitled to charge back uncollected collateral or otherwise to full or limited
24 recourse against the debtor or a secondary obligor.

1 (d) A secured party may deduct from the collections made pursuant to subsection (c)
2 reasonable expenses of collection and enforcement, including reasonable attorney's fees and
3 legal expenses incurred by the secured party.

4 (e) This section does not determine whether an account debtor, bank, or other person
5 obligated on collateral owes a duty to a secured party.

6 Section 9-801. This Act takes effect on July 1, 2013.

7 Section 9-802. That chapter 57A-9 be amended by adding thereto a NEW SECTION to read
8 as follows:

9 (a) Except as otherwise provided in this part, this Act applies to a transaction or lien within
10 its scope, even if the transaction or lien was entered into or created before July 1, 2013.

11 (b) This Act does not affect an action, case, or proceeding commenced before July 1, 2013.

12 Section 9-803. That chapter 57A-9 be amended by adding thereto a NEW SECTION to read
13 as follows:

14 (a) A security interest that is a perfected security interest immediately before this Act takes
15 effect is a perfected security interest under chapter 57A-9 as amended by this Act if, when this
16 Act takes effect, the applicable requirements for attachment and perfection under chapter 57A-9
17 as amended by this Act are satisfied without further action.

18 (b) Except as otherwise provided in section 9-805 of this Act, if, immediately before this Act
19 takes effect, a security interest is a perfected security interest, but the applicable requirements
20 for perfection under chapter 57A-9 as amended by this Act are not satisfied when this Act takes
21 effect, the security interest remains perfected thereafter only if the applicable requirements for
22 perfection under chapter 57A-9 as amended by this Act are satisfied within one year after this
23 Act takes effect.

24 Section 9-804. That chapter 57A-9 be amended by adding thereto a NEW SECTION to read

1 as follows:

2 A security interest that is an unperfected security interest immediately before this Act takes
3 effect becomes a perfected security interest:

4 (1) Without further action, when this Act takes effect if the applicable requirements for
5 perfection under chapter-57A-9 as amended by this Act are satisfied before or at that
6 time; or

7 (2) When the applicable requirements for perfection are satisfied if the requirements are
8 satisfied after that time.

9 Section 9-805. That chapter 57A-9 be amended by adding thereto a NEW SECTION to read
10 as follows:

11 (a) The filing of a financing statement before this Act takes effect is effective to perfect a
12 security interest to the extent the filing would satisfy the applicable requirements for perfection
13 under chapter 57A-9 as amended by this Act.

14 (b) This Act does not render ineffective an effective financing statement that, before this Act
15 takes effect, is filed and satisfies the applicable requirements for perfection under the law of the
16 jurisdiction governing perfection as provided in chapter 57A-9 as it existed before the effective
17 date of this Act. However, except as otherwise provided in subsections (c) and (d) and section
18 9-806 of this Act, the financing statement ceases to be effective:

19 (1) If the financing statement is filed in this state, at the time the financing statement
20 would have ceased to be effective had this Act not taken effect; or

21 (2) If the financing statement is filed in another jurisdiction, at the earlier of:

22 (A) The time the financing statement would have ceased to be effective under the
23 law of that jurisdiction; or

24 (B) June 30, 2018.

1 (c) The filing of a continuation statement after this Act takes effect does not continue the
2 effectiveness of a financing statement filed before this Act takes effect. However, upon the
3 timely filing of a continuation statement after this Act takes effect and in accordance with the
4 law of the jurisdiction governing perfection as provided in chapter 57A-9 as amended by this
5 Act, the effectiveness of a financing statement filed in the same office in that jurisdiction before
6 this Act takes effect continues for the period provided by the law of that jurisdiction.

7 (d) Subsection (b)(2)(B) applies to a financing statement that, before this Act takes effect,
8 is filed against a transmitting utility and satisfies the applicable requirements for perfection
9 under the law of the jurisdiction governing perfection as provided in chapter 57A-9 as it existed
10 prior to this Act, only to the extent that chapter 57A-9 as amended by this Act provides that the
11 law of a jurisdiction other than the jurisdiction in which the financing statement is filed governs
12 perfection of a security interest in collateral covered by the financing statement.

13 (e) A financing statement that includes a financing statement filed before this Act takes
14 effect and a continuation statement filed after this Act takes effect is effective only to the extent
15 that it satisfies the requirements of §§ 57A-9-501 to 57A-9-530, inclusive, as amended by this
16 Act for an initial financing statement. A financing statement that indicates that the debtor is a
17 decedent's estate indicates that the collateral is being administered by a personal representative
18 within the meaning of § 57A-9-503(a)(2) as amended by this Act. A financing statement that
19 indicates that the debtor is a trust or is a trustee acting with respect to property held in trust
20 indicates that the collateral is held in a trust within the meaning of § 57A-9-503(a)(3) as
21 amended by this Act.

22 Section 9-806. That chapter 57A-9 be amended by adding thereto a NEW SECTION to read
23 as follows:

24 (a) The filing of an initial financing statement in the office specified in § 57A-9-501

1 continues the effectiveness of a financing statement filed before this Act takes effect if:

2 (1) The filing of an initial financing statement in that office would be effective to perfect
3 a security interest under chapter 57A-9 as amended by this Act;

4 (2) The pre-effective-date financing statement was filed in an office in another state; and

5 (3) The initial financing statement satisfies subsection (c).

6 (b) The filing of an initial financing statement under subsection (a) continues the
7 effectiveness of the pre-effective-date financing statement:

8 (1) If the initial financing statement is filed before this Act takes effect, for the period
9 provided in unamended § 57A-9-515 as found prior to July 1, 2015, with respect to
10 an initial financing statement; and

11 (2) If the initial financing statement is filed after this Act takes effect, for the period
12 provided in § 57A-9-515 as amended by this Act with respect to an initial financing
13 statement.

14 (c) To be effective for purposes of subsection (a), an initial financing statement must:

15 (1) Satisfy the requirements of §§ 57A-9-501 to 57A-9-530, inclusive, as amended by
16 this Act for an initial financing statement;

17 (2) Identify the pre-effective-date financing statement by indicating the office in which
18 the financing statement was filed and providing the dates of filing and file numbers,
19 if any, of the financing statement and of the most recent continuation statement filed
20 with respect to the financing statement; and

21 (3) Indicate that the pre-effective-date financing statement remains effective.

22 Section 9-807. That chapter 57A-9 be amended by adding thereto a NEW SECTION to read
23 as follows:

24 (a) In this section, "pre-effective-date financing statement" means a financing statement filed

1 before this Act takes effect.

2 (b) After this Act takes effect, a person may add or delete collateral covered by, continue or
3 terminate the effectiveness of, or otherwise amend the information provided in, a
4 pre-effective-date financing statement only in accordance with the law of the jurisdiction
5 governing perfection as provided in chapter 57A-9 as amended by this Act. However, the
6 effectiveness of a pre-effective-date financing statement also may be terminated in accordance
7 with the law of the jurisdiction in which the financing statement is filed.

8 (c) Except as otherwise provided in subsection (d), if the law of this state governs perfection
9 of a security interest, the information in a pre-effective-date financing statement may be
10 amended after this Act takes effect only if:

11 (1) The pre-effective-date financing statement and an amendment are filed in the office
12 specified in § 57A-9-501;

13 (2) An amendment is filed in the office specified in § 57A-9-501 concurrently with, or
14 after the filing in that office of, an initial financing statement that satisfies section 9-
15 806(c) of this Act; or

16 (3) An initial financing statement that provides the information as amended and satisfies
17 section 9-806(c) of this Act is filed in the office specified in § 57A-9-501.

18 (d) If the law of this state governs perfection of a security interest, the effectiveness of a
19 pre-effective-date financing statement may be continued only under section 9-805(c) and (e)
20 of this Act or section 9-806 of this Act.

21 (e) Whether or not the law of this state governs perfection of a security interest, the
22 effectiveness of a pre-effective-date financing statement filed in this state may be terminated
23 after this Act takes effect by filing a termination statement in the office in which the
24 pre-effective-date financing statement is filed, unless an initial financing statement that satisfies

1 section 9-806(c) of this Act has been filed in the office specified by the law of the jurisdiction
2 governing perfection as provided in chapter 57A-9 as amended by this Act as the office in which
3 to file a financing statement.

4 Section 9-808. That chapter 57A-9 be amended by adding thereto a NEW SECTION to read
5 as follows:

6 A person may file an initial financing statement or a continuation statement under this part
7 if:

8 (1) The secured party of record authorizes the filing; and

9 (2) The filing is necessary under this part:

10 (A) To continue the effectiveness of a financing statement filed before this Act
11 takes effect; or

12 (B) To perfect or continue the perfection of a security interest.

13 Section 9-809. That chapter 57A-9 be amended by adding thereto a NEW SECTION to read
14 as follows:

15 This Act determines the priority of conflicting claims to collateral. However, if the relative
16 priorities of the claims were established before this Act takes effect, chapter 57A-9-as it existed
17 before July 1, 2013 determines priority.

State of South Dakota

EIGHTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2012

708T0307

HOUSE LOCAL GOVERNMENT ENGROSSED NO. **HB 1066** - 2/7/2012

Introduced by: Representatives Deelstra, Abdallah, Blake, Bolin, Conzet, Dennert, Elliott, Gibson, Gosch, Haggar, Hansen (Jon), Hickey, Hoffman, Hubbel, Hunt, Killer, Kirkeby, Liss, Lucas, Miller, Moser, Nelson (Stace), Scott, Sly, Solum, Street, Stricherz, Tornow, Vanneman, Wick, and Willadsen and Senators Hunhoff (Jean), Bradford, Brown, Buhl, Juhnke, Peters, Rave, Schlekeway, and Sutton

1 FOR AN ACT ENTITLED, An Act to allow for the cremation of deceased persons who are
2 indigent and the funeral expenses are the financial responsibility of the county.

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

4 Section 1. That § 28-17-1 be amended to read as follows:

5 28-17-1. If any person ~~shall die~~ dies within any county, who ~~shall~~ does not have money or
6 means necessary to defray ~~his~~ the funeral expenses, and whose relatives or friends are unable
7 or unwilling to defray the ~~same, it shall be the duty of~~ expenses, the county commissioners to
8 shall employ a ~~person~~ funeral director to provide for and superintend the burial or cremation of
9 ~~such~~ the deceased person.

10 Section 2. That § 28-17-2 be amended to read as follows:

11 28-17-2. ~~Whenever~~ If any person who is destitute and has no estate ~~shall die~~ dies within the
12 state, and who has no one legally bound for funeral expenses, and where there is no other source



1 to pay the cost of burial or cremation expense, the funeral expenses shall ~~then~~ be borne by the
2 county in which the deceased was a resident at time of death, ~~and if~~. If no residence can be
3 ~~fixed, then~~ determined for the deceased person, the funeral expenses shall be borne by the
4 county in which death occurred.

5 Section 3. That § 28-17-3 be amended to read as follows:

6 28-17-3. The selection of a funeral director ~~shall~~ may be made by the next of kin, if any,
7 otherwise by the ~~county commissioner in whose district death occurred~~ board of county
8 commissioners. The determination whether the decedent is buried or cremated may be made by
9 the next of kin, if any, otherwise by the board of county commissioners. In no case ~~shall~~ may
10 the county commissioners advertise for bids on burial or cremation of indigent poor.

11 Section 4. That § 28-17-4 be amended to read as follows:

12 28-17-4. On county burials, the funeral director in charge shall furnish a casket and outside
13 container and conduct the funeral services ~~in customary form, and the~~. On county cremations,
14 the funeral director in charge shall furnish an urn or container and conduct the funeral services.
15 The county shall allow the funeral director for merchandise and ~~such~~ services rendered, a sum
16 to be established by resolution of the board of county commissioners ~~in such county at their~~ at
17 the annual organizational meeting.

18 Section 5. That § 28-17-5 be amended to read as follows:

19 28-17-5. In addition to the burial and cremation expenses provided in § 28-17-4, the county
20 commissioners may contract with cemeteries within the state for burial space in a cemetery and
21 the opening and closing of the grave.

22 Section 6. That § 28-17-6 be amended to read as follows:

23 28-17-6. The necessary and reasonable expenses of burial or cremation under this chapter
24 shall be paid by the county treasurer, upon the order of ~~such~~ the commissioners; ~~and if~~. If the

1 decedent ~~shall have~~ had an established residency according to § 28-13-3 in a county in this state
2 different from that in which ~~he~~ the decedent died, the county paying ~~such~~ the funeral expenses
3 shall be reimbursed by the county in which the decedent had an established residency. ~~When the~~
4 ~~person so dying shall be~~ If the decedent was an honorably discharged United States soldier,
5 sailor, marine, or aviator, the funeral shall be conducted and expenses paid as provided in
6 chapter 33A-5.

State of South Dakota

EIGHTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2012

844T0448

SENATE AGRICULTURE AND NATURAL RESOURCES

ENGROSSED NO. **HB 1083** - 2/16/2012

Introduced by: Representatives Olson (Betty), Jensen, Kirkeby, Kopp, Lucas, Russell,
Venner, and Verchio and Senator Maher

1 FOR AN ACT ENTITLED, An Act to provide for term limits for brand board service.

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

3 Section 1. That § 40-18-3 be amended to read as follows:

4 40-18-3. Appointments to the board shall be made for terms of three years expiring on the
5 first Monday in January in each year. In case of vacancy prior to expiration of a term,
6 appointment shall be made for the balance of the unexpired term only. ~~However, the initial~~
7 ~~appointments to be made pursuant to SL 2004, ch 259 shall be made for staggered terms of one,~~
8 ~~two, two, three, and three years. No person may serve more than nine consecutive years on the~~
9 ~~board.~~



State of South Dakota

EIGHTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2012

660T0103

SENATE LOCAL GOVERNMENT ENGROSSED NO. **HB 1131** - 2/15/2012

Introduced by: Representatives Tulson, Abdallah, Bolin, Brunner, Elliott, Hoffman, Jensen, Jones, Kirkeby, Magstadt, and Verchio and Senators Holien, Begalka, Heineman, Lederman, Novstrup (Al), Rampelberg, Rhoden, Schlekeway, Tieszen, and Vehle

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to the posting of public
2 notice for meetings of public bodies.

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

4 Section 1. That § 1-25-1.1 be amended to read as follows:

5 1-25-1.1. All public bodies shall provide public notice, with proposed agenda, ~~at least~~
6 ~~twenty-four hours prior to~~ that is visible, readable, and accessible for at least an entire twenty-
7 four hours before any meeting, by posting a copy of the notice, visible to the public, at the
8 principal office of the public body holding the meeting, ~~and, for.~~ The notice shall also be posted
9 on the public body's website upon dissemination of the notice, if such a website exists. For
10 special or rescheduled meetings, ~~delivering,~~ the information in the notice shall be delivered in
11 person, by mail, by email, or by telephone, ~~the information in the notice~~ to members of the local
12 news media who have requested notice. For special or rescheduled meetings, all public bodies
13 shall also comply with the public notice provisions of this section for regular meetings to the



1 extent that circumstances permit. A violation of this section is a Class 2 misdemeanor.

State of South Dakota

EIGHTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2012

208T0651

HOUSE APPROPRIATIONS

ENGROSSED NO. **HB 1164** - 2/10/2012

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

Introduced by: Representatives Wismer, Brunner, Dennert, Hawley, Hoffman, Schaefer, and Sigdestad and Senators Sutton, Frerichs, and Putnam

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the sale of certain
2 surplus property in Yankton County.

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

4 Section 1. That section 1 of chapter 30 of the 2011 Session Laws be amended to read as
5 follows:

6 Section 1. The provisions of any law to the contrary, upon the request of the Governor, the
7 Commissioner of School and Public Lands shall sell all or any portion of the following real
8 estate located in Yankton County and any related personal property and improvements located
9 on the property:

10 (a) Certain property under the control of the Department of Human Services described
11 generally as Southeast Quarter of the Southeast Quarter (SE 1/4 SE 1/4) of Section
12 21, Township 94 North, Range 55, West of the 5th P.M., also described as Lot 13,
13 consisting of 10.1 acres, more or less, and that portion of Lot 14 ~~as~~ described in
14 Warranty Deed, F.V. Willhite, Grantor to Yankton State Hospital (administered by



1 the South Dakota Department of Human Services) Grantee; as recorded August 26th
2 1918 in Book 120 on page 388 in the County of Yankton to wit: Commencing on the
3 West or right bank of the James or Dakota River at a point where the east and west
4 section line between sections 21 and 28 of Township 94 North, of Range 55 West of
5 the 5th P.M. intersects said bank of said river; thence west along said section line
6 4.51 chains; thence north to the right bank of said river, thence down said stream
7 along the right bank of said river to the place of beginning north to the right bank of
8 said river, and accreted land; all of Section 21, Township 94 North, range 55, West
9 of the 5th P.M., consisting of 15 acres, more or less; and
10 (b) Certain property under the control of the Department of Human Services described
11 generally as the East 1900 feet of the South 1300 feet of Lot A being a Subdivision
12 of the SE1/4 of Section 36 Township 94 North Range 56 West of the 5th P.M.,
13 consisting of 56.70 acres, more or less.

State of South Dakota

EIGHTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2012

597T0572

HOUSE APPROPRIATIONS ENGROSSED NO. **HB 1199** - 2/10/2012

Introduced by: Representatives Wink and Brunner and Senators Rhoden and Juhnke

1 FOR AN ACT ENTITLED, An Act to revise certain provisions related to the distribution of
2 funds to sparse school districts.

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

4 Section 1. That § 13-13-79 be amended to read as follows:

5 13-13-79. At the same time that foundation program state aid is distributed to school
6 districts pursuant to §§ 13-13-10.1 to 13-13-41, inclusive, the secretary of the Department of
7 Education shall distribute funds to sparse school districts by multiplying the result of the
8 calculation in either subdivision 13-13-78(2) or subdivision 13-13-78(3) by seventy-five percent
9 of the per student allocation as defined in § 13-13-10.1. However, no sparse school district may
10 receive a sparsity benefit in any year that exceeds ~~one hundred twenty-three thousand seven~~
11 ~~hundred fifty dollars~~ one hundred ten thousand dollars. ~~If the appropriation is insufficient to~~
12 ~~fully fund all sparse school districts as per the calculation in either subdivision 13-13-78(2) or~~
13 ~~subdivision 13-13-78(3), each eligible district shall receive a pro rata share of the total~~
14 ~~appropriated amount.~~



State of South Dakota

EIGHTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2012

913T0562

SENATE COMMERCE AND ENERGY ENGROSSED NO. **HB 1227** - 2/16/2012

Introduced by: Representatives Abdallah, Blake, Bolin, Conzet, Cronin, Deelstra, Dennert, Gibson, Hansen (Jon), Hoffman, Hunhoff (Bernie), Lucas, Rausch, Scott, Turbiville, White, and Wick and Senators Brown, Bradford, Krebs, Lederman, Maher, Nelson (Tom), Novstrup (Al), Olson (Russell), Peters, Rave, and Schlekeway

1 FOR AN ACT ENTITLED, An Act to revise certain provisions with regard to the rights of
2 industrial and construction equipment dealers.

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

4 Section 1. That chapter 37-5 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Any dealer, as defined in § 37-5-12.1 or subdivision 37-5-13(1), whose business or property
7 is injured by a violation of chapter 37-5 may bring a civil action to recover all court costs and
8 reasonable attorney's fees in addition to all other remedies of law.

9 Section 2. That § 37-5-11 be amended to read as follows:

10 37-5-11. Any provision in any agreement evidenced by a franchise agreement, sales
11 agreement, security agreement, or other form of agreement or arrangement of like effect
12 between any wholesaler, manufacturer, ~~or~~ distributor of farm machinery or implements, or
13 distributor of industrial or construction equipment and a retail dealer restricting jurisdiction or



1 venue to a forum outside this state or requiring the application of the laws of another state to
2 disputes arising under the agreement is void as a matter of public policy.

3 Section 3. That § 37-5-12.1 be amended to read as follows:

4 37-5-12.1. For the purposes of §§ 37-5-1 to 37-5-12, inclusive, the term, dealer, means any
5 person, or the person's successor who, for commission or with intent to make a profit or gain,
6 sells, exchanges, rents, leases with the option to purchase, or offers or attempts to negotiate a
7 sale or exchange any merchandise as defined by this chapter from manufacturer authorized
8 facilities in this state, or who is engaged wholly or in part in the business of selling any such
9 merchandise from manufacturer authorized facilities in this state. The term does not include any
10 person with total annual gross sales in this state and elsewhere of one hundred million dollars
11 or more of industrial and construction equipment, attachments, replacement parts, and service
12 related to the equipment, from any one manufacturer or supplier of such equipment.

13 Section 4. That § 37-5-13 be amended to read as follows:

14 37-5-13. Terms used in §§ 37-5-13 to 37-5-15, inclusive, mean:

15 (1) "Dealer," any person who receives machinery from a manufacturer under a dealership
16 contract and who offers and sells the machinery to the general public from
17 manufacturer authorized facilities in this state. The term, dealer, does not include a
18 single-line dealer or any person with total annual gross sales in this state and
19 elsewhere of one hundred million dollars or more of industrial and construction
20 equipment, attachments, replacement parts, and service related to the equipment,
21 from any one manufacturer or supplier of such equipment;

22 (2) "Dealership contract," a written agreement or contract between a manufacturer and
23 dealer which fixes the legal rights and liabilities of the parties to such agreement or
24 contract;

- 1 (3) "Machinery," any farm vehicle as defined by § 32-3-2.4 or any off-road vehicle as
2 defined by subdivision 32-3-1(15) or merchandise as defined in subdivision 37-5-
3 12.2(3);
- 4 (4) "Manufacturer," any person engaged in the manufacturing or distribution of
5 machinery including any person who acts for the manufacturer;
- 6 (5) "Single-line dealer," any person that has purchased seventy-five percent or more of
7 the dealer's total new product inventory from a single manufacturer of industrial and
8 construction equipment under agreements with that manufacturer and has a total
9 annual average sales of industrial and construction equipment volume for the three
10 previous years with that single manufacturer in excess of fifty million dollars for the
11 territory for which that dealer is responsible.

State of South Dakota

EIGHTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2012

940T0120

HOUSE HEALTH AND HUMAN SERVICES

ENGROSSED NO. **SB 72** - 2/14/2012

Introduced by: Senators Hunhoff (Jean), Adelstein, Begalka, Fryslie, Hansen (Tom), Heineman, Kraus, Krebs, Nelson (Tom), Rhoden, Schlekeway, Tidemann, Tieszen, and Vehle and Representatives Romkema, Blake, Bolin, Boomgarden, Gibson, Hunhoff (Bernie), Kirkeby, Moser, Munsterman, Street, Verchio, and Wick

1 FOR AN ACT ENTITLED, An Act to regulate persons offering speech-language pathology to
2 the public.

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

4 Section 1. Terms used in this Act mean:

5 (1) "Board," the Board of Examiners for Speech-Language Pathology;

6 (2) "Department," the Department of Health;

7 (3) "Endoscopy," an imaging procedure included within the scope of practice for
8 speech-language pathologists in which a speech-language pathologist uses a
9 flexible/nasal endoscopy, rigid/oral endoscopy, or stroboscopy for the purpose of
10 evaluating and treating disorders of speech, voice, resonance, and swallowing
11 function;

12 (4) "Mentorship," the direct on-site supervision and monitoring of a speech-language
13 pathologist with a provisional license by a licensed speech-language pathologist;



- 1 (5) "Provisional license," the license issued to an applicant who is practicing
2 speech-language pathology while completing the supervised postgraduate
3 professional experience following completion of master's degree in speech-language
4 pathology;
- 5 (6) "Speech-language pathologist," any person who engages in the practice of
6 speech-language pathology and who meets the qualifications set forth in this Act;
- 7 (7) "Speech-language pathology assistant," any person who assists in the practice of
8 speech-language pathology and who meets the qualifications set forth in this Act; and
- 9 (8) "Telepractice," "telespeech," "telespeech-language pathology," or "telehealth,"
10 whether used separately or together. Telepractice service means the application of
11 telecommunication technology to deliver speech-language pathology at a distance for
12 assessment, intervention, or consultation.

13 Section 2. For the purposes of this Act, the practice of speech-language pathology is the
14 application of principles, methods, and procedures related to the development, disorders, and
15 effectiveness of human communication and related functions including providing prevention,
16 screening, consultation, assessment/evaluation, diagnosis, treatment/intervention/ management,
17 counseling, collaboration, and referral services for disorders of speech, language, feeding, and
18 swallowing, and for cognitive aspects of communication. The practice of speech-language
19 pathology also includes establishing augmentative and alternative communication techniques
20 and strategies, including developing, selecting, and prescribing of such systems and devices,
21 excluding the dispensing and fitting of hearing aids pursuant to chapter 36-24, providing
22 services to individuals with hearing loss and their families, screening persons for hearing loss
23 or middle ear pathology using conventional pure-tone air conduction methods, otoacoustic
24 emissions screening, or screening tympanometry, using instrumentation to observe, collect data,

1 and measure parameters of communication and swallowing, selecting, fitting, and establishing
2 effective use of prosthetic or adaptive devices for communication, swallowing, or other upper
3 aerodigestive functions, and providing services to modify or enhance communication
4 performance.

5 Section 3. No person may practice speech-language pathology or represent himself or herself
6 as a speech-language pathologist or speech-language pathology assistant in this state, unless
7 such person is licensed in accordance with this Act. A person represents oneself to be a
8 speech-language pathologist or speech-language pathology assistant if the person holds himself
9 or herself out to the public by any means, or by any service or function performed, directly or
10 indirectly, or by using the terms, speech pathologist, speech therapist, speech teacher, speech
11 correctionist, speech clinician, language therapist, language pathologist, language specialist,
12 voice therapist, voice pathologist, logopedist, communicologist, aphasiologist, phoniatriest,
13 speech-language pathologist assistant, or any variation, synonym, coinage, or other word that
14 expresses, employs, or implies these terms, names, or functions. A violation of this section is
15 a Class 2 misdemeanor.

16 Section 4. Any person who holds any speech-language pathologist certificate from the South
17 Dakota Department of Education as of July 1, 2012, and does not otherwise meet the
18 qualifications set forth in this Act may apply for and shall be granted a limited license to
19 practice as a speech-language pathologist as long as:

- 20 (1) The application is made no later than July 1, 2014; and
21 (2) The applicant complies with the provisions of subdivisions (1), (2), and (7) of section
22 14 of this Act.

23 The limits of the license shall be determined by the board in rules promulgated pursuant to
24 chapter 1-26.

1 Section 5. Nothing in this Act may be construed as preventing or restricting:

2 (1) Any person licensed, certified, registered, or otherwise credentialed by this state in
3 professions other than speech-language pathology from practicing that profession;

4 (2) Any person certified as a teacher of the deaf;

5 (3) The activities and services of any person pursuing a course of study leading to a
6 degree in speech-language pathology or as a speech-language pathology assistant at
7 a college or university if:

8 (a) The activities and services constitute a part of a planned course of study at that
9 institution;

10 (b) The person is designated by a title such as intern, trainee, student, or by other
11 such title clearly indicating the status appropriate to their level of education;
12 and

13 (c) The person works under the supervision of a person licensed by this state to
14 practice speech-language pathology;

15 (4) The activities of any person who is not licensed in this state from engaging in the
16 practice of speech-language pathology for the purpose of providing training or
17 continuous education as long as they hold an active license in another state, agree to
18 abide by the standards of professional conduct and do not engage in such activities
19 exceeding five days in any calendar year.

20 Section 6. Any person who is licensed as a speech-language pathologist in South Dakota
21 may perform assessment, treatment, and procedures related to speech, voice, resonance, and
22 swallowing function using nonmedical endoscopy as long as the person has received training
23 and is competent to perform these procedures. A licensed speech-language pathologist shall
24 have protocols in place for emergency medical backup when performing procedures using an

1 endoscope.

2 Section 7. Any person who is licensed as a speech-language pathologist in South Dakota
3 may provide speech-language pathology services via telepractice. Services delivered via
4 telespeech shall be equivalent to the quality of services delivered face-to-face.

5 Section 8. There is hereby created a Board of Examiners for Speech-Language Pathology
6 under the supervision of the Department of Health. The board shall consist of five members
7 appointed by the Governor who are residents of this state. Four of the members shall be
8 speech-language pathologists who are currently practicing speech-language pathology, who have
9 five years experience practicing speech-language pathology, and who hold a license to practice
10 speech-language pathology in this state, except for the first speech-language pathologists
11 appointed who need only meet the eligibility requirements for licensure. At least one of the
12 members who is a speech-language pathologist shall be employed in a school setting and one
13 of the members who is a speech-language pathologist shall be employed in a health care setting.
14 One of the members shall be a representative of the public who is not associated with or
15 financially interested in the practice or business of speech-language pathology.

16 Section 9. Each appointment to the board shall be for a period of three years except for the
17 initial appointments which shall be for staggered terms. Each member shall serve until the
18 expiration of the term for which the member has been appointed or until the member's successor
19 is appointed and qualified to serve on the board. If a vacancy occurs other than by expiration of
20 a term, the Governor shall appoint a qualified person to fill the vacancy for the unexpired term.
21 No member may serve more than three consecutive three-year terms.

22 The Governor may remove any member of the board for unprofessional conduct,
23 incompetence, or neglect of duty.

24 Section 10. The board shall meet during the first quarter of each calendar year to select a

1 chair and vice chair and to conduct other business. At least one additional meeting shall be held
2 before the end of each calendar year. Additional meetings may be convened at the call of the
3 chair or at the request of two or more board members.

4 Four members of the board constitutes a quorum to do business if the majority of the
5 members present are speech-language pathologists.

6 Section 11. Members of the board shall receive a per diem established pursuant to § 4-7-10.4
7 and expenses at the same rate as other state employees while actually engaged in official duties.

8 Section 12. The board has the following powers and duties:

- 9 (1) Administer, coordinate, and enforce the provisions of this Act, evaluate the
10 qualifications of applicants, supervise the examination of applicants, and issue and
11 renew licenses;
- 12 (2) Issue subpoenas, examine witnesses, administer oaths, conduct hearings, and, at its
13 discretion, investigate allegations of violations of this Act and impose penalties for
14 any violations;
- 15 (3) Promulgate rules pursuant to chapter 1-26 to delineate qualifications for licensure,
16 specify requirements for the renewal of licensure, regulate the delivery of services via
17 telepractice, establish standards of professional conduct, specify procedures for
18 suspension and revocation of licensure, establish a schedule of disciplinary actions
19 for violations of professional conduct, permit inactive licensures, establish
20 procedures for collection and management of fees and payments, establish
21 application, biennial licensure, biennial renewal, and late fees not to exceed one
22 hundred fifty dollars each delineate activities that may or may not be delegated to an
23 assistant, and specify requirements for supervision of speech-language pathology
24 assistants based on national guidelines;

- 1 (4) Have available the names and addresses of persons currently licensed pursuant to the
2 provision of this Act;
- 3 (5) Employ personnel in accordance with its needs and budget;
- 4 (6) Request legal advice and assistance, as needed, from the Office of the Attorney
5 General;
- 6 (7) Enter into such contracts as necessary to carry out its responsibilities under this Act;
- 7 (8) Hire legal counsel;
- 8 (9) Establish a budget;
- 9 (10) Submit reports of its operations and finances as required by § 4-7-7.2;
- 10 (11) Adopt an official seal by which it shall authenticate its proceedings, copies, records,
11 acts of the board, and licenses;
- 12 (12) Develop procedures for:
 - 13 (a) Monitoring a license holder's compliance with the requirements of this Act;
 - 14 (b) Monitoring a license holder who is ordered by the board to perform certain
15 acts;
 - 16 (c) Identifying a license holder who presents a risk to the public; and
 - 17 (d) Initiating appropriate actions regarding a license holder who presents a risk to
18 the public;
- 19 (13) Develop a system for monitoring complaints filed with the board, procedures for
20 providing assistance to a person who wishes to file a complaint, and a schedule for
21 disposing of complaints in a timely manner;
- 22 (14) Communicate disciplinary actions to relevant state and federal authorities including
23 the National Practitioners Database and the American Speech-Language-Hearing
24 Association Board of Ethics and to other state speech-language pathology licensing

1 authorities; and

2 (15) Perform any other duties directly related to the administration of the provisions of
3 this Act.

4 No member of the board is liable for civil action for any act performed in good faith in the
5 performance of the member's duties as prescribed by law.

6 Section 13. All moneys coming into the custody of the board, including any fees and any
7 other payments, shall be paid by the board to the state treasurer on or before the tenth day of
8 each month and shall consist of all moneys received by the board during the preceding calendar
9 month. The state treasurer shall credit the moneys to the Board of Examiners for Speech-
10 Language Pathology account, which account is hereby created. The moneys in the account are
11 hereby continuously appropriated to the board for the purpose of paying the expense of
12 administering and enforcing the provisions of this Act. The total expenses incurred by the board
13 may not exceed the total moneys collected.

14 Section 14. To be eligible for licensure by the board as a speech-language pathologist, the
15 applicant shall:

16 (1) Submit an application, upon a form prescribed by the board;

17 (2) Pay the application fee;

18 (3) Possess a master's or doctoral degree from an educational institution accredited by
19 the accrediting agency of the American Speech-Language-Hearing Association and
20 from an educational institution approved by the United States Department of
21 Education;

22 (4) Complete supervised clinical practicum experiences from an educational institution
23 or its cooperating programs;

24 (5) Complete a supervised postgraduate professional experience;

- 1 (6) Pass a written national examination in speech-language pathology; and
- 2 (7) Have committed no act for which disciplinary action may be justified.

3 Section 15. The board shall waive the qualifications in subdivisions (3), (4), (5), and (6) of
4 section 14 of this Act for any applicant who has filed an application with the board, has paid the
5 application fee, has not committed any act for which disciplinary action may be justified and:

- 6 (1) Presents proof of current licensure in a state that has standards that are equivalent to
7 or greater than those of this state; or
- 8 (2) Holds a current Certificate of Clinical Competence in Speech Language Pathology
9 from the American Speech-Language-Hearing Association.

10 Section 16. The board may waive the qualifications in subdivisions (3), (4), and (5) of
11 section 14 of this Act for any applicant who:

- 12 (1) Received a professional education in another country if the board is satisfied that
13 equivalent education and practicum requirements have been met; and
- 14 (2) Met the examination requirements in subdivision (6) of section 14 of this Act.

15 Section 17. The board shall issue a provisional license in speech-language pathology to an
16 applicant who:

- 17 (1) Except for the postgraduate professional experience, meets the academic, practicum,
18 and examination requirements of this Act;
- 19 (2) Submits an application, upon a form prescribed by the board, including a plan for the
20 content of the postgraduate professional experience;
- 21 (3) Pays the application fee for a provisional license; and
- 22 (4) Has not committed any act for which disciplinary action may be justified.

23 A person holding a provisional license may practice speech-language pathology only while
24 working under the mentorship of a licensed speech-language pathologist who meets the

1 qualifications of sections 14, 15, or 16 of this Act. The term for a provisional license and the
2 conditions for its renewal shall be determined by the board in rules promulgated pursuant to
3 chapter 1-26.

4 Section 18. The board shall issue a speech-language pathology assistant license to an
5 applicant who:

- 6 (1) Submits an application, upon a form prescribed by the board;
- 7 (2) Pays the application fee;
- 8 (3) Holds an associate's degree in speech-language pathology assisting or a bachelor's
9 degree with major emphasis in speech-language pathology or communication
10 disorders from an accredited academic institution;
- 11 (4) Submits an official transcript verifying necessary academic preparation and clinical
12 experiences;
- 13 (5) Completes a supervised clinical practicum of a minimum of one hundred clock hours
14 as a speech-language pathology assistant while either on the job or during academic
15 preparation; and
- 16 (6) Has committed no act for which disciplinary action is justified.

17 Section 19. Any person who is employed as a paraprofessional providing speech-language
18 pathology services under the direct supervision of a speech-language pathologist who holds a
19 speech-language pathologist certificate from the South Dakota Department of Education as of
20 July 1, 2012, and does not otherwise meet the qualifications set forth in this Act may apply for
21 and shall be granted a speech-language pathology assistant license and may continue to practice
22 as a speech-language pathology assistant. This exception expires July 1, 2020, at which time all
23 speech-language pathology assistants shall meet the requirements of this Act.

24 Section 20. An assistant shall be supervised by a licensed speech-language pathologist who

1 has at least three years of experience as a speech-language pathologist. The supervising speech-
2 language pathologist:

- 3 (1) Is responsible for the extent, kind, and quality of service provided by the assistant,
4 consistent with the board's designated standards and requirements;
- 5 (2) Shall ensure that persons receiving services from an assistant receive prior written
6 notification that services are to be provided, in whole or in part, by a speech-language
7 pathology assistant;
- 8 (3) May not supervise more than three speech-language pathology assistants at one time.
9 An assistant may have more than one supervisor if the board is notified.

10 Section 21. The board may impose separately, or in combination, any of the following
11 disciplinary actions on a licensee after formal or informal disciplinary action:

- 12 (1) Refuse to issue or renew a license;
- 13 (2) Issue a letter of reprimand or concern;
- 14 (3) Require restitution of fees;
- 15 (4) Impose probationary conditions;
- 16 (5) Require the licensee to reimburse the board for costs of the investigation and
17 proceeding;
- 18 (6) Suspend or revoke a license;
- 19 (7) Impose practice or supervision requirements, or both; or
- 20 (8) Require licensees to attend continuing education programs specified by the board as
21 to content and hours.

22 Section 22. If the board imposes suspension or revocation of license, application may be
23 made to the board for reinstatement. If a licensee is placed on probation, the board may require
24 the license holder to:

- 1 (1) Report regularly to the board on matters that are the basis of probation;
- 2 (2) Limit practice to the areas prescribed by the board; or
- 3 (3) Continue or review continuing education until the license holder attains and degree
- 4 of skill satisfactory to the board in those areas that are the basis of the probation.

5 Section 23. The board may take disciplinary actions for the following conduct:

- 6 (1) Fraudulently or deceptively obtaining or attempting to obtain a license or a
- 7 provisional license;
- 8 (2) Fraudulently or deceptively using a license or provisional license;
- 9 (3) Altering a license or provisional license;
- 10 (4) Aiding or abetting unlicensed practice;
- 11 (5) Selling, bartering, or offering to sell or barter a license or provisional license;
- 12 (6) Committing fraud or deceit in the practice of speech-language pathology, including:
- 13 (a) Willfully making or filing a false report or record in the practice of
- 14 speech-language pathology;
- 15 (b) Submitting a false statement to collect a fee;
- 16 (c) Obtaining a fee through fraud or misrepresentation;
- 17 (7) Using or promoting or causing the use of any misleading, deceiving, improbable, or
- 18 untruthful advertising matter, promotional literature, testimonial, guarantee,
- 19 warranty, label, brand insignia, or any other representation;
- 20 (8) Falsely representing the use or availability of services or advise of a physician;
- 21 (9) Misrepresenting the applicant, licensee, or holder by using the term, doctor, or any
- 22 similar word, abbreviation, or symbol if the use is not accurate or if the degree was
- 23 not obtained from a regionally accredited institution;
- 24 (10) Committing any act of dishonesty, immorality, or unprofessional conduct while

- 1 engaging in the practice of speech-language pathology;
- 2 (11) Engaging in illegal, incompetent, or negligent practice;
- 3 (12) Providing professional services while:
 - 4 (a) Mentally incompetent;
 - 5 (b) Under the influence of alcohol;
 - 6 (c) Using any narcotic or controlled dangerous substance or other drug that is in
7 excess of therapeutic amounts or without valid medical indication;
- 8 (13) Providing services or promoting the sale of devices, appliances, or products to a
9 person who cannot reasonably be expected to benefit from such services, devices,
10 appliances, or products;
- 11 (14) Violating any provision of this Act, or any lawful order given, or rule adopted, by the
12 board;
- 13 (15) Being convicted or pleading guilty or nolo contendere to a felony or to a crime
14 involving moral turpitude, whether or not any appeal or other proceeding is pending
15 to have the conviction or plea set aside;
- 16 (16) Being disciplined by a licensing or disciplinary authority of any state or country, or
17 any nationally recognized professional organization, or convicted or disciplined by
18 a court of any state or country for an act that would be grounds for disciplinary action
19 under this section;
- 20 (17) Exploiting a patient for financial gain or sexual favors;
- 21 (18) Failing to report suspected cases of child abuse or vulnerable adult abuse;
- 22 (19) Diagnosing or treating a person for speech disorders by mail or telephone unless the
23 person has been previously examined by the licensee and the diagnosis or treatment
24 is related to such examination; or

1 (20) Violating federal, state, or local laws relating to the profession.

2 The board shall adopt, by rules promulgated pursuant to chapter 1-26, a schedule of
3 sanctions to be imposed as the result of formal or informal disciplinary activities conducted by
4 the board.

5 Section 24. The board may take disciplinary action or suspend, revoke, or reissue a license
6 or certification only after a hearing conducted by a hearing examiner appointed by the board or
7 by a majority of the members of the board.

8 Any disciplinary proceeding or proceeding relative to the revocation or suspension of a
9 license or certification shall otherwise conform to the procedure set forth in chapter 1-26.

10 Any decision of the board to discipline, suspend, revoke, or reissue a license or certification
11 requires a majority vote of the board membership.

12 Any party feeling aggrieved by any acts, rulings, or decisions of the board acting pursuant
13 to sections 21, 22, or 23 of this Act, has the right to appeal under the provisions of chapter 1-26.

14 Section 25. Any person violating the provisions of this Act may be enjoined from further
15 violations at the suit of the state's attorney of the county where the violations occurred or suit
16 may be brought by any citizen of this state. An action for injunction is an alternate to criminal
17 proceedings, and the commencement of one proceeding by the board constitutes an election.