

REPORT OF THE ATTORNEY GENERAL  
ON THE  
STATUS OF OPEN GOVERNMENT IN SOUTH DAKOTA

APPENDIX A

EXAMPLES OF STATE STATUTES GENERALLY REQUIRING DOCUMENTS TO  
BE KEPT OR MAINTAINED

JUNE 30, 2007

## STATE AFFAIRS & GOVERNMENT

### BUREAU OF ADMINISTRATION

**1-14-12. General powers and duties of bureau.** The Bureau of Administration shall be administered by the commissioner of administration and he shall:

(1) Keep an exact and true inventory of all property, real and personal, belonging to the State of South Dakota;

### HEALTH AND EDUCATIONAL FACILITIES AUTHORITY

**1-16A-72.1. "Eligible community" defined for purposes of physician tuition reimbursement-- Community assessment--Department to maintain list.** For purposes of §§ 1-16A-71.1, 1-16A-72.1, and 1-16A-73.1 to 1-16A-73.5, inclusive, an eligible community is any community in this state which:

- (1) Has a population of ten thousand persons or less;
- (2) Agrees to provide its portion of the tuition reimbursement payments payable to a physician who practices in the community as required by §§ 1-16A-71.1, 1-16A-72.1, and 1-16A-73.1 to 1-16A-73.5, inclusive; and
- (3) Is determined to be eligible by the Department of Health.

Before making a determination under subdivision (3) of this section, the Department of Health shall conduct a community assessment designed to evaluate the community's need for a physician and its ability to sustain and support a family physician. The department shall maintain a list of communities which have been assessed and which are eligible for participation in the tuition reimbursement program established by §§ 1-16A-71.1, 1-16A-72.1, and 1-16A-73.1 to 1-16A-73.5, inclusive. The department may revise any community assessment or conduct a new assessment as necessary to reflect any change in conditions within a community.

**1-16A-73.7. Eligible community--Determination of eligibility--Community assessment--List of eligible communities.** For the purposes of §§ 1-16A-73.6 to 1-16A-73.12, inclusive, an eligible community is any community in this state which:

- (1) Has a population of five thousand persons or less;
- (2) Agrees to provide the midlevel tuition reimbursement payment payable to a physician assistant or nurse practitioner who practices in the community as required by §§ 1-16A-73.6 to 1-16A-73.12, inclusive; and
- (3) Is determined to be eligible by the Department of Health.

The Department of Health shall make a determination of eligibility under subdivision (3) of this section based on an evaluation of a community's need for a physician assistant or nurse practitioner and its ability to sustain and support a physician assistant or nurse practitioner. The department shall maintain a list of communities which have been determined to be eligible for participation in the midlevel tuition reimbursement program established by §§ 1-16A-73.6 to 1-16A-73.12, inclusive. The department may revise any determination as necessary to reflect any change in conditions within a community.

**1-16A-73.21. "Eligible community" defined for purposes of dentist tuition reimbursement-- Community assessment--Department to maintain list.** For the purposes of §§ 1-16A-73.20 to 1-16A- 73.27, inclusive, an eligible community is any community in this state that:

- (1) Has a population of ten thousand persons or less;
- (2) Agrees to provide its portion of the tuition reimbursement payments payable to a dentist who practices in the community as required by §§ 1-16A-73.20 to 1-16A-73.27, inclusive; and
- (3) Is determined to be eligible by the Department of Health.

Before making the determination under subdivision (3) of this section, the Department of Health shall conduct a community assessment designed to evaluate the community's need for a dentist and its ability to sustain and support a dentist. The department shall maintain a list of communities that have been assessed and that are eligible for participation in the tuition reimbursement program established by §§ 1-16A-73.20 to 1-16A-73.27, inclusive. The department may revise any community assessment or conduct a new assessment as necessary to reflect any change in conditions within a community.

#### PUBLIC RECORDS AND FILES

**1-27-19. Annual meeting to authorize destruction of political subdivision records-- Record of disposition.** The State Record Destruction Board shall meet at least once each year and consider requests of all political subdivisions for the destruction of records and to authorize their destruction as in the case of state records. However, in the case of any records recommended to be destroyed, the board shall require a record to be kept of the disposition of the documents.

#### DEPARTMENT OF TRANSPORTATION

**1-44-29. Records of railroad property management.** The Department of Transportation shall maintain those property management records generally maintained by railroads for state-owned railroad property and facilities.

#### PUBLIC FISCAL ADMINISTRATION

##### REVENUES AND RECEIPTS

**4-3-3. Receipts to be given for state funds--Distribution of copies--Additional requirements for uniform accounting system.** If any officer or employee of the state receives any money for the state by virtue of his office or employment, he shall enter the amount and the person from whom the money was received on a prenumbered receipt in duplicate. The receipts shall be prenumbered by the printer consecutively and shall be used in numerical order. The original of each receipt shall be delivered to the payer if so requested or if payment was received in cash. The officer or employee shall retain the duplicate receipt in his office or department.

The auditor-general may prescribe additional requirements he considers necessary to create accountability and adequate accounting records for all state revenues compatible with a state uniform accounting system.

## ACCOUNTS AND RECORDS

**4-10-1. State treasurer's accounts of receipts and disbursements.** The state treasurer shall keep an accurate account of the receipts and disbursements of the treasury.

## PUBLIC PROPERTY, PURCHASES AND CONTRACTS

### DEPARTMENT OF SCHOOL AND PUBLIC LANDS

**5-1-8. Land records and conveyances transferred to commissioner--Indexing and filing.** All boards, commissions, or other agencies of the State of South Dakota having the control of and administering lands in which the title is in the State of South Dakota, or any officer of the state having the custody of any such records shall transfer to the commissioner of school and public lands all records pertaining to the same including deeds, patents, and other conveyances together with all easements or grants of any kind affecting such land. The commissioner of school and public lands shall index such lands in the platbooks of the Department of School and Public Lands according to the legal description thereof and index and file all title papers or easements heretofore or hereafter granted.

**5-1-9. Records of subdivisions granted to state--Organization and contents.** The commissioner of school and public lands shall cause to be prepared and kept in his office a record of each subdivision of lands granted to the state for all purposes. For the lands embraced within each grant for a distinct and specific purpose, separate books of record shall be provided. Such books shall contain a description of each subdivision, and in columns opposite such description there shall be recorded, as may be required, the appraised value of the tract, date of lease, name of lessee, term of lease, and amount of annual rental, date of sale, name of purchaser, price, amount paid in cash, amount unpaid and when due, amount of annual interest, date of patent, name of patentee, and such other information as may be necessary to make a full and complete abstract of the condition of such tract.

### STATE SCHOOL AND ENDOWMENT FUNDS

**5-10-3. Accounts and records maintained by commissioner.** The commissioner of school and public lands shall keep an accurate account of all money due or to become due the state on account of sales and leases of school and public lands and the interest arising from the loaning of the permanent school fund.

## PUBLIC BUILDINGS AND IMPROVEMENTS

**5-14-9. Plans, specifications, bids, contracts, and cost records kept by Bureau of**

**Administration.** The Bureau of Administration shall keep the original or a copy of the plans and specifications of all state buildings, of all bids submitted and of all contracts let for their erection, and shall prepare and keep itemized statements of the cost of construction of all such buildings.

## STATE PURCHASES AND PRINTING

**5-23-34. Records and files maintained by bureau.** The Bureau of Administration shall keep suitable records in which shall be recorded all requisitions for public printing, stationery, and supplies, all advertisements, bids, certified checks, bonds, contracts, orders, vouchers, and all acts and proceedings taken under the provisions of this chapter. All requisitions, advertisements, bids, certified checks, bonds, specifications, schedules of specifications, contracts, reports, and any other papers or documents executed under the provisions of this chapter shall constitute the files in the bureau, except as otherwise provided for in this chapter.

## RECEIPT, CARE AND ACCOUNTING FOR PUBLIC PROPERTY

**5-24-1.1. Inventory of state personal property required.** Officers and employees of each state institution and department are required to maintain an inventory of all public personal property in the manner prescribed by rule by the commissioner of the Bureau of Administration.

**5-24-2. Cost or value to be shown in inventory--Filing.** The inventories required by §§ 5-24-1 and 5-24-1.1 shall show the actual cost for each item, or the estimated cost at the time of acquisition, if the actual cost cannot be ascertained. In the case of gifts, the estimated fair market value at the time of acquisition shall be used. The officer or employee shall retain one copy of the inventory in his office. The others shall be filed, as provided in §§ 5-24-1.1 and 5-24-3.

## STATE MOTOR VEHICLE POOL

**5-25-2. Vehicle operation and mileage records maintained by state departments--Report attached to claim for reimbursement of expense.** Each office, department, institution, board, and agency of this state operating a state-owned passenger automobile or automobiles shall keep and maintain in its respective office:

- (1) Accurate records of its cost of operation of said automobile or automobiles;
- (2) Travel reports showing destination and miles traveled each day according to speedometer registration and the total speedometer mileage at the beginning and at the end of each travel period, together with all operating expenses incurred for that period. A copy of such travel report shall be attached to the claim or claims presented for reimbursement of the travel expense covered thereby.

## REGISTER OF DEEDS

**7-9-1. Duty to keep records of instruments--Destruction of unneeded records.** The register of deeds shall keep full and true records in proper books, of all deeds, mortgages, and other instruments authorized by law to be recorded in the register of deeds' office, and records of all chattel mortgages, bills of sale, conditional sale contracts, and other instruments authorized by law to be filed in the register of deeds' office, if the person offering any of such instruments pays the fee required by law for recording or filing the same. Any document presented for recording with the register of deeds shall contain a typed, stamped, or printed legend stating the words, prepared by, followed by the name, address, and telephone number of the preparer. The following documents are exempt from this requirement:

(1) Documents dated prior to July 1, 1994;

(2) Documents prepared by the United States of America, this state, or any instrumentality, agency, or political subdivision of either; and

(3) Court certified documents.

The register of deeds may destroy those records that the state records destruction board, pursuant to § 1-27-19, has declared to be of no further administrative, legal, fiscal, research, or historical value.

**7-9-9. Alphabetical indexes of instruments affecting real property.** In addition to the numerical indexes required by § 7-9-8, there shall be kept one index of the deeds, contracts, and other instruments, not liens merely, and another of the mortgages and other instruments which are liens affecting title to real property, which indexes shall show the names of the grantors and grantees, dates of instruments, dates of filing, and description of property affected.

**7-9-10. Monthly report to tax officials of real estate transfers.** It shall be the duty of the register of deeds in each county to keep in his office and to enter therein the name of the grantor and the grantee and a sufficient description of the real estate in each transfer to perfectly identify the same and, on the last working day of each calendar month, he shall certify to the secretary of revenue, county auditor and director of equalization a list of transfers for the current month.

**7-9-16. Reception record and fee book maintained by register--Entries in record.** The register of deeds shall keep a reception record and fee book to be provided by the county which shall be a part of the records of his office and in which shall be entered each item of fees charged or received by him for service rendered as such officer and which book shall also show the name and character of each instrument received for recording or filing, the date of the same, the names of the parties thereto, and the date, hour and minute when received for filing, and the filing number or book and page of record of such instrument.

## COUNTY TREASURER

**7-11-12. Accounting records maintained--Destruction.** The county treasurer shall keep and maintain such accounting records as set forth in the accounting manual prepared by the auditor-general. However, the county treasurer may destroy any record which the records destruction board, acting pursuant to § 1-27-19, declares to have no further administrative, legal, fiscal, research, or historical value.

## MUNICIPAL OFFICERS AND EMPLOYEES

**9-14-17. Records maintained by appointed financial official--Warrants on treasury--Expense estimates, contracts and certificates of work--Destruction of records.** The appointed financial official shall keep an office at such place as the governing body may direct, keep the corporate seal, all papers, and records of the municipality, and a record of the proceedings of the governing body, whose meetings such official shall attend. Such official shall draw and countersign all warrants on the treasury in pursuance of orders or resolutions of the governing body and keep a full and accurate account thereof in books provided for that purpose. Such official shall make or cause to be made estimates of the expenses of any work to be done by the municipality, countersign all contracts made on its behalf and certificates of work authorized by any committee of the governing body or by any municipal officer. However, the official may destroy any record which the records destruction board, acting pursuant to § 1-27-19, declares to have no further administrative, legal, fiscal, research, or historical value.

**9-14-18. Financial records maintained by appointed financial official--Signature of evidences of indebtedness--Destruction of records.** The appointed financial official shall keep regular books of account in which shall be entered all indebtedness of the municipality, and which shall at all times show the financial condition of the municipality, the amount of bonds, warrants, certificates, or other evidences of indebtedness issued by the governing body, and the amounts of all bonds, warrants, certificates, or other evidences of indebtedness which have been redeemed and the amount of each outstanding.

The official shall countersign all bonds, warrants, or other evidences of indebtedness of the municipality and keep accurate accounts thereof, stating to whom and for what purpose issued and the amount thereof. The official shall keep an account with all receiving and disbursing officers of the municipality, showing the amount received from the different sources of revenue and the amount which was disbursed under the direction of the governing body. However, the official may destroy any record which the records destruction board, acting pursuant to § 1-27-19, declares to have no further administrative, legal, fiscal, research, or historical value.

**9-14-20. Special assessment records and reports by appointed financial official.**

The appointed financial official shall keep a list of all certificates issued for work or any other purpose, and before the levy by the governing body of any special tax shall, unless that duty is performed by the engineer, report to the governing body a schedule of all lots which may be subject to the proposed special tax or assessment, and also the amount of such special tax or assessment which it may be necessary to levy on such lots which schedule shall be verified by the official's affidavit.

**9-14-21. Auditing and adjustment by appointed financial official--Miscellaneous records and duties--Destruction of records.** The appointed financial official shall examine all reports, books, papers, vouchers, and accounts of the treasurer; audit and adjust all claims and demands against the municipality before they are allowed by the governing body; keep a record of the official's acts and doings; keep a book in which the official shall enter all contracts, with an index thereto, which book shall be open to the inspection of all parties interested; and perform such other duties as may be required by ordinance, resolution, or direction of the governing body. However, the appointed financial official may destroy any record which the Records Destruction Board, acting pursuant to § 1-27-19, declares to have no further administrative, legal, fiscal, research, or historical value.

EDUCATION

**13-13-39. Apportionment of foundation program funds within counties--Distribution of copies--Payments to school districts--Pledge of funds pursuant to lease with the authority.** The Department of Education shall apportion the foundation program funds to each eligible school district and shall prepare such a list of apportionments in triplicate. One copy shall be filed with the state auditor as a voucher, one copy to each school district, and one copy shall be retained in the files of the department.

The state auditor shall issue the warrant to each school district when the apportionment voucher is presented for the total amount of the foundation program funds each school district is to receive, subject to any reduction necessitated by the issuance of a warrant to the health and educational facilities authority as provided below.

If the Department of Education receives written notice from the Health and Educational Facilities Authority of a pledge of foundation program funds or other amounts under Title 13 by a school district pursuant to a lease, resolution, certificate, or other arrangement with the authority or any bond, certificate, note, or other obligation issued to or in connection with a program sponsored by the Health and Educational Facilities Authority for school districts in anticipation of funds under Title 13, the Department of Education shall deduct from amounts otherwise due to a school district for the current month and the next two succeeding months under the apportionment of foundation program funds or other amounts under Title 13 an amount sufficient to pay rentals, bonds, notes, certificates, or other amounts then due but unpaid and the amount so deducted shall be paid to the authority or any financial institution designated by the authority acting as a

fiduciary in connection therewith, all as specified by the authority. A record of the amount so pledged as security or otherwise payable to the authority shall be filed with the state auditor.

The state auditor shall issue a warrant to the authority for the deducted amount specified by the Health and Educational Facilities Authority as above provided. No pledge by a school district of foundation program funds or other amounts under Title 13 for any other purpose may be permitted and if made is voidable at the election of the Health and Educational Facilities Authority.

## TEACHER CERTIFICATION

**13-42-6. Oath of allegiance required for certificate--Aliens excepted--Administration of oath.** A teacher's certificate may not be issued unless the applicant is a United States citizen and takes an oath to support the Constitutions of the United States and of the State of South Dakota or unless the applicant is a legal alien. The secretary of the Department of Education shall keep a copy of the oath on file. A legal alien employed by a school district is not required to file an oath of allegiance. The secretary of the Department of Education may administer the oath required under this chapter.

## PENAL INSTITUTIONS, PROBATION & PAROLE

### STATE PRISON INDUSTRIES

**24-7-8. Separate account for each prison industry.** Separate accounts shall be kept by the director of prison industries to clearly show the financial condition of each separate prison industry.

**24-7-10. Director as custodian of all moneys and property--Duty to keep accounts--Authority to install accounting systems--Bond required.** The director of prison industries shall be the custodian of all moneys and property of the prison industries and shall keep accurate account of all its proceedings and transactions, make all reports, requisitions, and statements, may install such systems of accounting as will meet the demands of the secretary of corrections most expeditiously and shall perform all such other duties and file such bond as may be required by the secretary.

**24-11-16. Jail records to be maintained.** The sheriff or other officer having charge of any jail shall keep jail records. These records shall be carefully kept and preserved and delivered to such officer's successor in office. The officer shall exhibit these records to any judge of the circuit court, if requested to do so, and to the Department of Corrections for the purposes on monitoring compliance with the requirements of the Juvenile Justice and Delinquency Prevention Act pursuant to § 1-15-28.

## DEVELOPMENTALLY DISABLED PERSONS

## DEFINITIONS AND GENERAL PROVISIONS

**27B-1-15. Administrative functions of department.** The Department of Human Services shall develop, adopt, approve, coordinate, monitor, evaluate, and administer state and federally funded services for persons with developmental disabilities and their families within South Dakota in cooperation with all governmental and private resources and organizations concerned with developmental disabilities.

From existing department funds or special funds appropriated by the Legislature, the department shall:

(6) Maintain a data collection system on the prevalence of developmental disabilities, including autism, based on the needs of persons with developmental disabilities in the current service delivery system.

## STATE TRUNK HIGHWAY SYSTEM

**31-4-13. Official map of system--Alterations or additions.** The Department of Transportation shall cause to be prepared and maintained in its offices at Pierre an official map of the State of South Dakota showing outlined thereon the exact location of the state trunk highway system as created in this chapter and shall file with each county auditor a copy of such map. Any alterations or additions thereto shall be entered in writing upon the records of maps of the Department of Transportation and each county auditor shall be immediately notified to alter the copy of the official map on file with him in accordance therewith.

## MOTOR VEHICLES

**32-3-16. Uniform method of numbering certificates--Retention of documents in department records.** The department shall prescribe and adopt a uniform method of numbering certificates of title which shall be unique and which the numbers may not be duplicated. The department shall appropriately file and index all records by title number. Applications, certificates of titles, and any other documents filed with the department shall be microfilmed and retained in the department records.

## BOILER SAFETY

**34-29A-46. Record of boilers and inspections.** The secretary of public safety, or his designee, shall keep a complete record of the type, dimensions, maximum allowable pressure, age, location, and date of the last recorded inspection of all boilers to which this chapter applies.

## ENVIRONMENTAL PROTECTION

## WATER SUPPLY AND TREATMENT SYSTEM OPERATORS

**34A-3-11. Powers and duties of secretary of department.** The secretary shall have the

duty and authority:

(8) To maintain records of operator qualifications and certification, and maintain a register of certified operators.

## PROFESSIONS AND OCCUPATIONS

### OPTOMETRISTS

**36-7-14. Recording of certificate of registration.** Before any certificate of registration is issued it shall be numbered and recorded in a book kept in the office of the board and its number shall be noted upon the certificate.

### PHARMACIES AND PHARMACISTS

**36-11-22. Registration record maintained by board--Contents.** The Board of Pharmacy shall keep a record of registration in which shall be entered the names and places of business of all persons registered under this chapter which records shall also specify such facts as such persons shall claim to justify their registration.

### ABSTRACTERS OF TITLE

**36-13-4. Records and accounts of board--Inspection.** The Abstracters' Board of Examiners shall keep a permanent record of its receipts and disbursements with the supporting vouchers. The records of the board shall be open to public inspection and its accounts shall be subject to audit by the Department of Legislative Audit or the state auditor.

### PUBLIC ACCOUNTANTS

**36-20B-5. Officers elected annually--Quorum--Meetings--Registry of licenses--Records certified by board admissible in evidence.** The board shall elect annually from among its members a chair, vice chair, and secretary-treasurer. A quorum for the transaction of board business shall consist of a majority of the members. The board shall meet at such times and places as may be determined by the board. The board shall have a seal which shall be judicially noticed. The board shall retain or arrange for the retention of all applications and all documents under oath that are filed with the board and also records of its proceedings, and it shall maintain a registry of the names and addresses of all active licensees under this chapter. The board may maintain a registry of the names and addresses of all other licensees. In any proceeding in court, whether civil or criminal, arising out of or founded upon any provision of this chapter, copies of any records certified as true copies under the seal of the board are admissible in evidence as tending to prove the contents of the records.

### HEARING AID DISPENSERS

**36-24-31. Business address of licensee given to board--Board record required.** Any

person who holds a hearing aid dispensing license or an audiology license shall notify the board in writing of the town and street address of the place where the licensee engages or intends to engage in the practice of the dispensing of hearing aids or audiology. If the place of business is located in, or in connection with, a place of residence, the room to be used as an office shall be clearly designated and identified for the convenience of the public. The board shall keep an up-to-date record of these addresses.

## PLUMBERS

**36-25-7. Seal and record of proceedings--Register.** The commission shall have a common seal and shall keep a record of its proceedings, including a register which shall show the action taken by the commission on all applications for permits.

## TRADE REGULATION

### FRANCHISES FOR BRAND-NAME GOODS AND SERVICES

**37-5A-57. Register of filings and orders--Public inspection.** The director shall keep a register of all filings which are or have ever been effective under this chapter and all denial, suspension, revocation, and other orders which have been entered under this chapter. The register shall be open for public inspection.**37-5A-58 Trade Regulation - Franchises - filings open to public inspection**

## GAME, FISH, PARKS AND FORESTRY

### ENFORCEMENT POWERS AND PROCEDURES

**41-15-20. Sale of contraband and abandoned property--Disposition of proceeds--Record of sales--Tagging of articles sold.** The secretary of game, fish and parks shall have authority to sell at the highest market price obtainable therefor all furs, fish, game animals, game birds, hunting and fishing equipment, and other contraband which may come into his possession by abandonment or as contraband as provided in §§ 41-15-15 to 41-15-19, inclusive. The proceeds of such sales shall be turned into the state treasury and credited to the Department of Game, Fish and Parks fund. A record of such sales, including the name of the purchaser and the purchase price paid, shall be kept by the secretary. The secretary shall before sale tag the same in a manner to be determined by him.

### INTERSTATE WILDLIFE VIOLATOR COMPACT

**41-15A-9. Notification of failure to comply with citation--Period to comply--Suspension of privileges--Due process--Record.** Upon receipt of a report from the licensing authority of the issuing state reporting the failure of a violator to comply with the terms of a citation, the licensing authority of the violator's home state shall notify the violator of the failure to comply through personal contact by a wildlife officer or in writing by certified mail. The notice shall afford the violator a period of thirty

consecutive days to comply with the terms of the citation. The thirty-day period shall commence from the date of personal contact or from the date of mailing of the notice by certified mail. If the violator fails to comply with the terms of the citation within the thirty-day period, the licensing authority of the home state may then suspend the violator's hunting, trapping, or fishing privileges until satisfactory evidence of compliance with the terms of the citation has been furnished by the issuing state to the home state licensing authority. Due process safeguards shall be accorded and the licensing authority of the home state shall maintain a record of actions taken and shall make reports to issuing states as provided in the compact manual.