

State of South Dakota

SEVENTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 1997

708A0776

SENATE BILL NO. 258

Introduced by: Senators Kleven, Flowers, Johnson (William), Staggers, and Vitter and
Representatives Pummel, Apa, Kredit, McNenny, and Wetz

1 FOR AN ACT ENTITLED, An Act to provide for a refund of certain taxes attributed to the
2 construction of a project by any political subdivision of this state.

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

4 Section 1. Terms used in this chapter mean:

5 (1) "Department," the Department of Revenue;

6 (2) "Project," any site, structure, facility, utility, or undertaking serving any political
7 subdivision of this state, the construction or installation of which is subject to the
8 excise tax pursuant to chapters 10-46A or 10-46B;

9 (3) "Project cost," the amount paid in money, credits, property, or other money's worth
10 for a project;

11 (4) "Secretary," the secretary of the Department of Revenue.

12 Section 2. Any political subdivisions of this state may apply for and obtain a refund or credit
13 for any excise taxes imposed and paid under the provisions of chapters 10-46A or 10-46B for
14 the construction of a project.

15 Section 3. The refund pertains only to project costs incurred and paid after July 1, 1997. The

1 refund pertains only to project costs that were incurred and paid within thirty-six months of the
2 approval of the application required by section 5 of this Act. No refund may be made unless the
3 political subdivision of this state applying for the refund obtains a permit from the secretary as
4 set forth in section 5 of this Act.

5 Section 4. The amount of the tax refund shall be one hundred percent of the excise taxes
6 attributed to the project cost.

7 Section 5. Any political subdivision of this state desiring to claim a refund pursuant to section
8 2 of this Act shall apply for a permit from the secretary at least thirty days prior to
9 commencement of the project. The application for a permit shall be submitted on a form
10 prescribed by the secretary. A separate application shall be made and submitted for each project.
11 Upon approval of the application, the secretary shall issue a permit entitling the applicant to
12 submit refund claims as provided by section 6 and section 7 of this Act. Such permit or refund
13 claims are not assignable or transferable except as collateral or security pursuant to chapter
14 57A-9.

15 Section 6. Any claim for refund shall be submitted on forms prescribed by the secretary and
16 shall be supported by such documentation as the secretary may require. The secretary may deny
17 any claim where the claimant has failed to provide information or documentation requested or
18 considered necessary by the secretary to determine the validity of the claim.

19 Section 7. Any claim for refund shall be submitted to the department on or before the last day
20 of the month following each quarterly period. The secretary shall determine the amount of the
21 tax refund. Ninety percent of the amount of refund shall be paid to the claimant in accordance
22 with §§ 10-59-22 and 10-59-23, and ten percent shall be withheld by the department.

23 Section 8. The amounts withheld by the department in accordance with section 7 of this Act
24 shall be retained until the project has been completed and the claimant has met all the conditions
25 of section 3 of this Act, at which time all sums retained shall be paid to claimant.

1 Section 9. If any claim has been fraudulently presented or supported as to any item in the
2 claim, or if the claimant fails to meet all the conditions of section 3 of this Act, then such claim
3 may be rejected in its entirety and all sums previously refunded to the claimant shall constitute
4 a debt to the state and a lien in favor of the state upon all property and rights to property whether
5 real or personal belonging to the claimant and may be recovered in an action of debt.

6 Section 10. Any political subdivision of this state aggrieved by the denial in whole or in part
7 of a refund claimed under this chapter, may within thirty days after service of the notice of such
8 denial by the secretary, demand and is entitled to a hearing, upon notice, before the secretary.
9 The hearing shall be conducted pursuant to chapter 1-26.

10 Section 11. The secretary shall promulgate rules, pursuant to chapter 1-26, concerning the
11 procedures for filing refund claims and the requirements necessary to qualify for a refund.