

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

400C0385

HOUSE TRANSPORTATION COMMITTEE

ENGROSSED NO. **HB1037** - 1/20/99

Introduced by: The Committee on Transportation at the request of the Public Utilities
Commission

1 FOR AN ACT ENTITLED, An Act to revise certain motor carrier regulations and to increase
2 motor carrier eligibility for single trip permits.

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

4 Section 1. That § 49-28-1 be amended to read as follows:

5 49-28-1. Terms used in this chapter mean:

6 (1) "Commission," the Public Utilities Commission;

7 (2) "Corporation," a corporation, company, association, or joint stock association;

8 (3) "For hire," for remuneration of any kind, paid or promised for the transportation of
9 persons or property. An occasional accommodative or reciprocal transportation
10 service by a person not in the transportation business while on an errand for such
11 person's benefit, is not a service for hire, even though the person transported shares
12 in the cost or pays for the service;

13 (4) "~~ICC," the Interstate Commerce Commission~~ "FHWA," Federal Highway
14 Administration;

15 (5) "~~ICC exempt~~ Exempt motor carrier," an interstate motor carrier who is exempt from
16 the ~~ICC's~~ FHWA's jurisdiction over interstate transportation;

- 1 (6) "~~ICC-regulated~~ Regulated motor carrier," an interstate motor carrier who is subject
2 to the ~~ICC's~~ FHWA's jurisdiction over interstate transportation;
- 3 (7) "Motor carrier," any person, corporation, lessee, trustee, or receiver operating any
4 motor vehicle, trailer, or semitrailer on any public highway in this state for the
5 transportation of persons or property, for hire;
- 6 (8) "Motor vehicle," all vehicles or machines propelled by any power other than muscular
7 used upon the public highways for the transportation of persons or property;
- 8 (9) "Permit," the permit authorized to be issued under this chapter;
- 9 (10) "Person," a natural person, firm, corporation, limited liability company, copartnership,
10 company, association, joint stock company, or, the lessee, trustee, or receiver
11 appointed by any court for any one of the foregoing;
- 12 (11) "Public highway," every street, alley, public road, public thoroughfare, or highway in
13 this state;
- 14 (12) "Registration state," the state in which ~~an ICC a~~ a regulated motor carrier selects to
15 register its interstate motor carrier operations pursuant to 49 USC ~~11506(c)(1)(A)~~
16 § 14504 and 49 CFR PART ~~1023.3~~ 367 as of January 1, ~~1994~~ 1999;
- 17 (13) "Semitrailer," any vehicle of the trailer type, equipped with a kingpin assembly,
18 designed and used in conjunction with a fifth wheel connecting device on a motor
19 vehicle and constructed so that some part of its weight and that of its load rests upon
20 or is carried by another vehicle;
- 21 (14) "Trailer," every vehicle without motive power designed to carry property or persons
22 wholly on its own structure and to be drawn by a motor vehicle;
- 23 (15) "Board," the Surface Transportation Board as defined in 49 USC § 13102(1) as of
24 January 1, 1999;
- 25 (16) "Secretary," the secretary of the United States Department of Transportation as that

1 term is defined in 49 USC § 13102(17) as of January 1, 1999.

2 Section 2. That § 49-28-33 be amended to read as follows:

3 49-28-33. The commission may pursuant to chapter 1-26 adopt rules to establish uniform
4 procedures for the administration of the provisions of this chapter. Rules may be adopted by the
5 commission governing motor carriers in the following areas:

6 (1) Filing information and reports; and

7 (2) Registration and identification when performing interstate operations within the state.

8 The director of the division of highway patrol may promulgate reasonable rules pursuant to
9 chapter 1-26 to promote safety of operations, standards, and safety of equipment. The rules shall
10 conform as nearly as possible with the rules and regulations for safety of operations and
11 equipment adopted by the U.S. Department of Transportation, pursuant to ~~40~~ 49 U.S.C.
12 ~~§ 1655(e) Chapter 311~~ as amended through January 1, ~~1995~~ 1999.

13 Section 3. That § 49-28-36 be amended to read as follows:

14 49-28-36. No ~~ICC~~ exempt motor carrier may perform interstate operations, to, from, within,
15 or traversing this state unless it files an application for the registration of such operation with the
16 commission and the commission approves the application by the issuance of a registration permit.

17 In lieu of a registration permit, all ICC regulated motor carriers shall comply with 49 U.S.C.
18 ~~§ 11506 13901~~ and 49 CFR PART ~~1023~~ 365 as of January 1, ~~1994~~ 1999, before performing any
19 interstate operations to, from, within, or traversing this state.

20 Section 4. That § 49-28-36.1 be amended to read as follows:

21 49-28-36.1. The fee to accompany the filing of an application for registration as an ~~ICC~~
22 exempt motor carrier is twenty-five dollars. However, no registration fee is required if the
23 applicant has previously paid a registration fee for other interstate operations and is registered
24 with the commission at the time the application is received by the commission.

25 Section 5. That § 49-28-36.4 be amended to read as follows:

1 49-28-36.4. Any nonresident ~~ICC~~ exempt motor carrier shall, before a registration permit is
2 issued under this chapter, designate and maintain in this state an agent upon whom may be served
3 all summonses or other lawful processes in any action or proceeding against such motor carrier
4 arising from its carrier operations. Service of process upon or acceptance or acknowledgment
5 of such service by the agent has the same legal force and validity as if duly served upon the
6 nonresident carrier personally. The designation of agent shall be in writing, shall give the name
7 and address of the agent, and shall be filed in the office of the commission. Any nonresident ~~ICC~~
8 regulated motor carrier shall file with its registration state the name of an agent to receive service
9 of process from South Dakota pursuant to ~~49 CFR PART 1023.4(3) as of January 1, 1994~~ 49
10 USC § 13303(b) and 49 USC § 13304 as of January 1, 1999. Upon failure of any nonresident
11 motor carrier to file a designation of agent as provided by this section, the nonresident motor
12 carrier shall be conclusively considered to have designated the secretary of state as such agent.
13 Service of process upon or acceptance or acknowledgment of such service by the secretary of
14 state has the same legal force and validity as if duly served upon such nonresident carrier
15 personally if notice of such service and a copy of the process are immediately sent by registered
16 mail by the secretary of state, to the nonresident carrier, if the carrier's address be known.
17 Service of such process upon the secretary of state shall be made by delivering to the secretary
18 of state's office two copies of the process with a fee of three dollars to cover the costs of
19 handling and mailing the process.

20 Section 6. That § 49-28-36.5 be amended to read as follows:

21 49-28-36.5. Registration permits issued by the commission to ~~ICC~~ exempt motor carriers
22 shall continue in effect without payment of annual renewal fees if each ~~ICC~~ exempt motor carrier
23 pays an annual identification fee of five dollars for each motor vehicle operated in interstate
24 movement within the borders of this state with not less than one annual identification fee to be
25 paid annually before the first day of December of each year. However, in no instance may any

1 ~~ICC~~ exempt motor carrier be required to purchase or display more than one identification stamp
2 for any one motor vehicle. Failure of an ~~ICC~~ exempt motor carrier to pay a minimum of one
3 identification fee or an ~~ICC~~ regulated motor carrier to register with a registration state by the
4 first day of December of any year, shall result in the cancellation of registration and no further
5 interstate movement may be permitted until the motor carrier has re-registered in accordance
6 with the rules of the commission.

7 Section 7. That § 49-28-36.6 be amended to read as follows:

8 49-28-36.6. An interstate motor carrier who infrequently makes use of the state highways
9 ~~with a nonscheduled chartered bus~~ may, upon proof of satisfactory financial responsibility, elect
10 to pay for a single trip permit ~~for the bus~~ in lieu of registering ~~the bus~~ pursuant to § 49-28-36.
11 The fee for the single trip permit is forty dollars.

12 Section 8. That § 49-28-36.7 be amended to read as follows:

13 49-28-36.7. A motor carrier shall make an application for a single trip permit as provided by
14 § 49-28-36.6 and the permit secured at a port of entry or by such other means designated by the
15 ~~public utilities~~ commission prior to ~~the bus~~ beginning movement over the state's highways. The
16 application shall include the applicant's name and business address, a description of the vehicle,
17 and the route of travel suggested for the trip.

18 Section 9. That § 49-28-41 be amended to read as follows:

19 49-28-41. The ~~public utilities~~ commission shall cooperate with the ~~interstate commerce~~
20 ~~commission, to the extent authorized by the federal Motor Carrier Act FHWA~~, in the
21 administration of ~~that federal act~~ motor carrier laws, and the commission may appear before the
22 ~~interstate commerce commission FHWA, the secretary, or the board~~ as a party litigant in all
23 proceedings involving the regulation and control of motor carriers in interstate commerce if, in
24 its opinion, the public interest of the state justifies such participation.

25 Section 10. That § 49-28-41.1 be amended to read as follows:

1 49-28-41.1. If the ~~public utilities~~ commission determines upon its own motion or upon the
2 petition of a resident of this state that it is in the best interests of the state, it may appear before
3 the ~~interstate commerce commission~~ FHWA, the secretary, or the board as a party in all
4 proceedings involving the regulation and control of motor carriers in interstate commerce. ~~When~~
5 If any matter is pending before the ~~interstate commerce commission~~ FHWA, the secretary, or
6 the board between a resident of this state as petitioner and a motor carrier doing business in this
7 state and engaged in interstate transportation of freights, charging such carrier with any violation
8 of the Interstate Commerce Act, upon application of the petitioner, the ~~public utilities~~
9 commission may appear therein and be substituted as a party in place of such petitioners and
10 thereafter the matter shall be prosecuted by the ~~public utilities~~ commission at the expense of the
11 state in the same manner as though originally begun by it.

1 **BILL HISTORY**

2 1/12/99 First read in House and referred to Transportation. H.J. 38

3 1/14/99 Scheduled for Committee hearing on this date.

4 1/16/99 Scheduled for Committee hearing on this date.

5 1/16/99 Transportation Do Pass Amended, Passed, AYES 12, NAYS 0. H.J. 78

6 1/16/99 Transportation Place on Consent Calendar.

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

400C0209

HOUSE ENGROSSED NO. **HB1040** - 1/26/99

Introduced by: The Committee on Agriculture and Natural Resources at the request of the
Department of Game, Fish, and Parks

1 FOR AN ACT ENTITLED, An Act to repeal certain restrictions regarding the hunting of black
2 bears, mountain lions, and wolves and to establish civil damages for the unlawful taking of
3 mountain lions.

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

5 Section 1. That § 41-8-2.1 be repealed.

6 ~~41-8-2.1. No person may hunt, kill, or capture black bears, mountain lions and wolves in~~
7 ~~South Dakota, except pursuant to § 41-6-29. A violation of this section is a Class 2~~
8 ~~misdemeanor.~~

9 Section 2. That § 41-1-5.1 be amended to read as follows:

10 41-1-5.1. Any person other than a minor under the age of sixteen years who willfully and
11 unlawfully kills, destroys, takes, or possesses in this state any animal designated by this section
12 is liable to the state for damages, which are five thousand dollars for each elk, mountain lion, or
13 buffalo; ten thousand dollars for each mountain goat or mountain sheep; one thousand dollars
14 for each deer, antelope, or bobcat. However, the return uninjured of the big game animal to the
15 place where captured, or to such other place as the Department of Game, Fish and Parks may
16 direct, ~~shall constitute~~ constitutes a discharge of such damages. However, the provisions of this

1 section do not apply to any person, who, after providing written notice received by the
2 Department of Game, Fish and Parks, forty-eight hours in advance, takes reasonable actions to
3 protect the person's land, livestock, or crops from serious and extraordinary damages caused by
4 elk, deer, ~~or~~ antelope, or mountain lion. Nothing in this section or any other provision of law
5 prevents any person from taking any action necessary to protect the personal safety of that
6 person or any other person who is in immediate danger of harm from a mountain lion or other
7 animal specified in this section.

1 **BILL HISTORY**

2 1/12/99 First read in House and referred to Agriculture and Natural Resources. H.J. 39

3 1/21/99 Scheduled for Committee hearing on this date.

4 1/21/99 Agriculture and Natural Resources Do Pass Amended, Passed, AYES 13, NAYS 0.

5 H.J. 104

6 1/26/99 Motion to Amend, Passed, AYES 52, NAYS 15. H.J. 196

7 1/26/99 House of Representatives Do Pass Amended, Passed, AYES 65, NAYS 3. H.J. 197

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

400C0407

HOUSE TRANSPORTATION COMMITTEE

ENGROSSED NO. **HB1052** - 1/20/99

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

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding accident record fees.

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

3 Section 1. That § 32-34-13 be amended to read as follows:

4 32-34-13. Reports pursuant to §§ 32-34-7 to 32-34-12, inclusive, and the information
5 contained in such reports is not privileged and may not be held confidential. The secretary of
6 transportation shall collect four dollars for each ~~copy of a report furnished to any person by his~~
7 office request to locate a report on file. The secretary shall furnish to any person requesting a
8 search, at no additional cost, any report located by the search. All sums collected ~~for copies of~~
9 ~~such reports~~ shall be deposited in the state highway fund.

1 **BILL HISTORY**

2 1/12/99 First read in House and referred to Transportation. H.J. 41

3 1/14/99 Scheduled for Committee hearing on this date.

4 1/16/99 Scheduled for Committee hearing on this date.

5 1/16/99 Transportation Do Pass Amended, Passed, AYES 7, NAYS 5. H.J. 78

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

400C0320

HOUSE COMMERCE COMMITTEE ENGROSSED NO. **HB1058** - 1/26/99

Introduced by: The Committee on Commerce at the request of the Department of Commerce
and Regulation

1 FOR AN ACT ENTITLED, An Act to revise the Board of Accountancy's authority regarding
2 certificate holders not in public practice and to revise certain educational, continuing
3 education, and examination requirements for licensees and certificate holders.

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

5 Section 1. That § 36-20A-1 be amended to read as follows:

6 36-20A-1. Terms, as used in this chapter, mean:

- 7 (1) "Board," the South Dakota Board of Accountancy established pursuant to
8 § 36-20A-3 or its predecessor;
- 9 (2) "Certificate," a certificate as a certified public accountant issued pursuant to
10 § 36-20A-8 or corresponding provisions of prior law, or a corresponding certificate
11 as certified public accountant issued after examination under the law of any other
12 state;
- 13 (3) "Firm," a sole proprietorship, a corporation, limited liability company, or a
14 partnership;
- 15 (4) "Licensee," the holder of a certificate issued pursuant to § 36-20A-8 or of a license
16 issued under prior law, or of a permit issued pursuant to § 36-20A-10, 36-20A-11,

1 or 36-20A-14; or, in each case, a certificate, license, or permit issued under
2 corresponding provisions of prior law;

3 (5) "Permit," a permit to practice public accountancy issued to a person pursuant to
4 § 36-20A-10 or 36-20A-11 or the corresponding provisions of prior law or to a firm
5 pursuant to § 36-20A-14;

6 (6) "~~Quality~~ Peer review," a study, appraisal, or review by a licensee of this state or a
7 person holding a certificate of any state, of one or more aspects of the professional
8 work of a person or firm in the practice of public accountancy;

9 (7) "State," any state of the United States, the District of Columbia, Puerto Rico, the
10 United States Virgin Islands, and Guam. However, the term, this state, means the
11 State of South Dakota;

12 (8) "Foreign," referring to a jurisdiction outside of the United States;

13 (9) "Domestic," referring to a jurisdiction of a state as the term, state, is defined by this
14 section; and

15 (10) "License," a license as a public accountant issued pursuant to § 36-20A-17.

16 Section 2. That § 36-20A-4 be amended to read as follows:

17 36-20A-4. The board shall elect annually from among its members a chair, and such other
18 officers as the board considers appropriate. The board shall meet at such times and places within
19 this state as may be fixed by the board. Any meeting of the board is open to the public except
20 insofar as they are concerned with investigations under § 36-20A-21 and except as may be
21 necessary to protect information which is required to be kept confidential by the laws of this
22 state. A majority of the board members ~~then in office~~ constitutes a quorum. The board shall
23 maintain a registry of the names and addresses of all licensees under this chapter who hold
24 current permits to practice public accountancy. The board may maintain a registry of the names
25 and addresses of all other licensees. The board shall be within the Department of Commerce and

1 Regulation and shall submit such reports of its activities in the form and at such times as required
2 by the secretary of commerce and regulation.

3 Section 3. That § 36-20A-7 be amended to read as follows:

4 36-20A-7. The board may promulgate rules pursuant to chapter 1-26 governing its
5 administration and enforcement of this chapter and the conduct of licensees, including:

- 6 (1) Rules governing the board's meeting and the conduct of its business;
- 7 (2) Rules of procedure governing the conduct of investigations and hearings by the board;
- 8 (3) Rules specifying the fees and educational qualifications required for the issuance of
9 certificates pursuant to §§ 36-20A-8 and 36-20A-10, the experience required for
10 issuance of permits pursuant to §§ 36-20A-10 and 36-20A-11, the date for renewal
11 of permits pursuant to §§ 36-20A-10 and 36-20A-14, and the continuing professional
12 education required for renewal of permits pursuant to § 36-20A-12;
- 13 (4) Rules of professional conduct to control the quality and integrity of the practice of
14 public accountancy by permit holders;
- 15 (5) Rules governing the manner and circumstances of use by holders of certificates who
16 do not also hold permits under this chapter of the titles, certified public accountant
17 and CPA;
- 18 (6) Rules specifying procedures and fees for registration of certificate holders who do not
19 also hold permits under this chapter of the titles, certified public accountant and CPA;
- 20 (7) Rules governing the manner and circumstances of use by holders of licenses issued
21 under prior law who do not also hold permits under this chapter of the titles, public
22 accountant and PA;
- 23 (8) Rules specifying procedures and fees for registration of license holders who do not
24 also hold permits under this chapter of the titles, public accountant and PA;
- 25 (9) Rules regarding quality peer review pursuant to § 36-20A-15;

- 1 (10) Rules specifying a ~~quality peer~~ review administrative fees;
- 2 (11) Rules specifying procedures and fees for ~~quality peer~~ review seminars and manuals;
- 3 (12) Rules specifying fees for examination and reexamination and issuance of a certificate
- 4 pursuant to § 36-20A-8;
- 5 (13) Rules specifying procedures and fees for proctoring applicants ~~of~~ from another
- 6 jurisdiction;
- 7 (14) Rules specifying the procedures and fees for initial issuance or renewal of an
- 8 individual or firm permit pursuant to § 36-20A-18; ~~and~~
- 9 (15) Rules governing the application and fees for a modification of a suspension or reissue
- 10 of a certificate, license, or permit pursuant to § 36-20A-25;
- 11 (16) Rules governing the methods, eligibility, and requirements for applying for
- 12 examination and reexamination pursuant to § 36-20A-8;
- 13 (17) Rules specifying procedures and fees for renewal of certificates and individual and
- 14 firm permits not filed in a timely manner;
- 15 (18) Rules specifying procedures and fees for replacement of a certificate or permits issued
- 16 pursuant to § 36-20A-8, 36-20A-10, 36-20A-11, or 36-20A-14;
- 17 (19) Rules specifying methods and requirements for conducting the examination prescribed
- 18 in § 36-20A-8;
- 19 (20) Rules specifying methods, eligibility, and requirements of applying for a certificate in
- 20 accordance with § 36-20A-8;
- 21 (21) Rules specifying procedures and fees for issuance of certificates and individual and
- 22 firm permits not filed within the required period of time; and
- 23 (22) Rules defining active and inactive status of both certificate and PA license holders
- 24 who do not have a valid individual permit to practice.

25 Section 4. That § 36-20A-8 be amended to read as follows:

1 36-20A-8. The board shall grant ~~the a~~ certificate of ~~certified public accountant~~ to any
2 applicant who meets the requirements of good character, education, and examination, and who
3 pays the fees prescribed in this chapter.

4 Good character for purposes of this section ~~means~~ is indicated by lack of a history of
5 dishonest or felonious acts. The board may refuse to grant a certificate on the ground of failure
6 to satisfy this requirement only if there is a substantial connection between the lack of good
7 character of the applicant and the professional responsibilities of a licensee. If an applicant is
8 found to be unqualified for a certificate because of a lack of good character, the board shall
9 furnish the applicant a statement containing the reasons for the refusal.

10 The education requirement for a certificate, which shall be met before one hundred days after
11 an applicant sits for the examination prescribed in this chapter, is at least one hundred fifty
12 semester hours of college education, including graduation from an accredited college or
13 university with a baccalaureate or a graduate major in accounting, or the satisfactory completion
14 of a course of study which the board has determined to be substantially the equivalent of an
15 accounting major, including related courses in other areas of business administration. Such
16 courses of study may be in a college or university recognized by the board.

17 The examination required to be passed as a condition for the granting of a certificate ~~shall~~
18 ~~be in writing~~, shall be held at least annually; and shall test the applicant's knowledge of the
19 subjects of accounting, auditing, and such other related subjects as the board may specify by rule
20 promulgated pursuant to chapter 1-26. The time and place for holding such examination shall be
21 fixed by the board and may be changed from time to time. The board shall prescribe by rule
22 promulgated pursuant to chapter 1-26 the requirements and methods of applying for and
23 conducting the examination, including methods for grading papers and determining a passing
24 grade entitling an applicant to a certificate.

25 An applicant shall be required to pass all parts of the examination provided for in this section

1 in order to qualify for a certificate. If at any sitting of the examination an applicant passes the
2 number of parts specified by the board by rule promulgated pursuant to chapter 1-26, then the
3 applicant shall be given credit for those parts ~~that he has~~ passed and need not sit for
4 reexamination in those parts, if:

- 5 (1) The applicant wrote all parts of the examination at that sitting;
- 6 (2) The applicant attained a minimum grade specified by the board by rule promulgated
7 pursuant to chapter 1-26 on each part not passed at that sitting;
- 8 (3) The applicant passes the remaining parts of the examination within seven consecutive
9 examinations given after the one at which the first parts were passed;
- 10 (4) At each subsequent sitting at which the applicant seeks to pass any additional parts,
11 the applicant writes all parts not yet passed; and
- 12 (5) In order to receive credit for passing additional parts in any such subsequent sitting,
13 the applicant attains such grades on parts written but not passed on such sitting as
14 specified by the board by rule promulgated pursuant to chapter 1-26.

15 An applicant shall be given credit for any parts of an examination passed in another state if
16 such credit would have been given, under then applicable requirements, if the applicant had taken
17 the examination in this state. The board may in particular cases waive or defer any of the
18 foregoing requirements regarding the circumstances in which the various parts of the
19 examination shall be passed, upon a showing that, by reason of circumstances beyond the
20 applicant's control, ~~he~~ the applicant was unable to meet such requirement.

21 The board may charge each applicant a fee, in an amount prescribed by the board by rule
22 promulgated pursuant to chapter 1-26, for each part of the examination or reexamination taken
23 by the applicant.

24 Section 5. That chapter 36-20A be amended by adding thereto a NEW SECTION to read
25 as follows:

1 An examination candidate, who was accepted under the educational requirement in effect
2 through December 31, 1997, and who sat on or before the November 1997 examination, may
3 continue to sit for the examination in accordance with requirements established by the board by
4 rule promulgated pursuant to chapter 1-26.

5 Section 6. That chapter 36-20A be amended by adding thereto a NEW SECTION to read
6 as follows:

7 A person, who passed the examination as a South Dakota candidate on or before the
8 November 1997 examination and who did not apply for a certificate by December 31, 1997, may
9 apply for a certificate in accordance with requirements and by such date established by the board
10 by rule promulgated pursuant to chapter 1-26.

11 Section 7. That § 36-20A-11 be amended to read as follows:

12 36-20A-11. Any individual practicing public accountancy in this state is required to have an
13 individual permit to practice.The board shall issue an individual permit to a holder of a certificate
14 issued by another state upon a showing that:

15 (1) The applicant passed an examination required for issuance of ~~his~~ the certificate
16 equivalent to the examination required by this state with grades that would have been
17 passing grades at the time in this state;

18 (2) The applicant meets all current requirements in this state for issuance of a certificate
19 at the time application is made; or at the time of the issuance of the applicant's
20 certificate in the other state, met all requirements then applicable in this state for
21 issuance of a certificate; or has four years of experience in the practice of public
22 accountancy or equivalent, meeting requirements prescribed by the board by rule
23 promulgated pursuant to chapter 1-26 after passing the examination upon which ~~his~~
24 the certificate was based and within the ten years immediately preceding ~~his~~ the
25 application; and

1 (3) The applicant meets the requirements of § 36-20A-10 other than holding a valid
2 certificate issued by this state.

3 Section 8. That § 36-20A-13 be amended to read as follows:

4 36-20A-13. Any applicant for initial issuance or renewal of individual permits shall in ~~his~~ the
5 application list all states in which ~~he~~ the applicant has applied for or holds any certificate or
6 permit; ~~and each~~ Each holder of an individual permit shall notify the ~~Board of Accountancy~~
7 board in writing, within thirty days after its occurrence, of any denial of an application, or
8 revocation or suspension of a certificate or permit, in another state.

9 Each holder of an individual permit shall notify the board in writing, within thirty days after
10 its occurrence, of any change in employment or address.

11 Section 9. That § 36-20A-14 be amended to read as follows:

12 36-20A-14. Any firm practicing public accountancy in this state ~~shall~~ is required have a firm
13 permit to practice. The board shall grant or renew a permit to practice public accountancy to any
14 firm that applies and demonstrates its qualifications. The board shall issue permits and renew
15 them for periods of one year but in any event expiring on the date as determined by the board
16 by rule promulgated pursuant to chapter 1-26 following issuance or renewal. The failure to
17 renew on the part of any registrant under this chapter does not deprive such firm of the right of
18 renewal thereafter if it is otherwise qualified. The fee for the renewal of the permit after it has
19 expired shall be increased by a uniform percent or amount to be established by the board by rule
20 promulgated pursuant to chapter 1-26. Applications for permits shall be made in such form, and
21 in the case of applications for renewal between such dates as the board may, by rule,
22 promulgated pursuant to chapter 1-26, specify. An applicant for initial issuance or renewal of a
23 permit to practice pursuant to this section shall show that the proprietor or each partner,
24 member, officer, or shareholder who works in this state, and each employee holding a certificate
25 who works in this state except for employees who have not yet accumulated sufficient experience

1 to qualify for an individual permit pursuant to § 36-20A-10, holds a valid individual permit to
2 practice, and that each other partner, member, officer, or shareholder holds a certificate and is
3 licensed to practice public accountancy in some other state. An applicant for initial issuance or
4 renewal of a permit to practice pursuant to this section shall register with the board each office
5 of the firm within this state and each office of the firm located out of state that is practicing in
6 this state, and show that each office is under the charge of a person holding a valid permit to
7 practice.

8 Section 10. That § 36-20A-15 be amended to read as follows:

9 36-20A-15. The board may, by rule promulgated pursuant to chapter 1-26, require, on either
10 a uniform or a random basis, as a condition to renewal of firm permits pursuant to § 36-20A-14,
11 that applicants undergo ~~quality peer~~ reviews conducted in such manner and producing such
12 satisfactory result as the board may specify. However, any such requirement shall include
13 reasonable provision for compliance by means of an applicant furnishing evidence of a
14 satisfactory ~~quality peer~~ review performed for other purposes.

15 The board may charge any firm subject to ~~quality peer~~ review administrative fees to be
16 established by rule promulgated pursuant to chapter 1-26. The fees may be established in
17 accordance to the provisions under which the firm applies for ~~quality peer~~ review.

18 Pursuant to the ~~quality peer~~ review process, the board shall treat the reports of the reviewer
19 and all records submitted to the reviewer by the firm subject to review as confidential
20 information. The board may not disclose such information to any persons other than staff
21 members, legal counsel, and other persons retained by the board to assist it in fulfilling its
22 responsibilities under this chapter and the rules promulgated by the board pursuant to chapter
23 1-26.

24 Section 11. That § 36-20A-16 be amended to read as follows:

25 36-20A-16. Any applicant for initial issuance or renewal of firm permits shall, in ~~his~~ the

1 application, list all states in which ~~he~~ the applicant has applied for or holds any permit to practice
2 public accountancy; and each holder of or applicant for a firm permit shall notify the ~~Board of~~
3 ~~Accountancy board~~ in writing within thirty days after its occurrence of any change in the
4 identities of partners, members, officers, or shareholders who work within this state, any change
5 in the number or location of offices within this state, any change in the identity of the persons in
6 charge of such offices, and any issuance, denial, revocation, or suspension of a permit by any
7 other state.

8 Section 12. That § 36-20A-17 be amended to read as follows:

9 36-20A-17. Any person who on June 30, 1984, held any license as a public accountant or
10 permit to practice public accountancy issued under prior law of this state shall have ~~his~~ the permit
11 to practice renewed pursuant to § 36-20A-10, if ~~he~~ the person fulfills all requirements for
12 renewal other than holding a ~~certificate~~ license. If ~~such licensees~~ a licensee and the ~~firms~~ firm,
13 in which ~~they are proprietors, partners, officers, or shareholders~~ the licensee is a proprietor,
14 partner, officer, or shareholder, hold valid permits to practice pursuant to §§ 36-20A-10 and
15 36-20A-14, respectively, they may engage in the practice of public accountancy to the same
16 extent as other holders of such permits. They may also use the designations, public accountants
17 and PA, but no other designation, in connection with the practice of public accountancy.

18 Section 13. That § 36-20A-20 be amended to read as follows:

19 36-20A-20. The board may, in accordance with chapter 1-26, revoke any certificate, license,
20 or permit issued pursuant to § 36-20A-8, 36-20A-10, 36-20A-11, or 36-20A-14, or
21 corresponding provisions of prior law, suspend any such certificate, license, or permit or refuse
22 to renew any such certificate, license, or permit for a period of not more than five years,
23 reprimand, censure, or limit the scope of practice of any licensee, or place any licensee on
24 probation, all with or without terms, conditions, and limitations for any of the following reasons:

- 25 (1) Fraud or deceit in obtaining a certificate or permit;

- 1 (2) Cancellation, revocation, suspension, or refusal to renew authority to engage in the
2 practice of public accountancy in any other state for any cause;
- 3 (3) Failure, on the part of a holder of a permit pursuant to § 36-20A-10, 36-20A-11, or
4 36-20A-14 or on the part of a holder of a certificate pursuant to § 36A-20A-8 or of
5 a certificate issued by another state, to maintain compliance with the requirements for
6 issuance or renewal of such permit or to report changes to the board pursuant to
7 § 36-20A-13 or 36-20A-16, or section 22 of this Act;
- 8 (4) Revocation or suspension of the right to practice before any state or federal agency;
- 9 (5) Dishonesty or gross negligence in the practice of public accountancy or in the filing
10 or failure to file personal income tax returns;
- 11 (6) Violation of any of the provisions of this chapter or rules promulgated pursuant to
12 chapter 1-26 by the board under this chapter;
- 13 (7) Conviction of a felony or of any crime, an element of which is dishonesty or fraud,
14 under the laws of any state or the United States;
- 15 (8) Performance of any fraudulent act while holding a certificate, license, or permit;
- 16 (9) Any conduct reflecting adversely upon the licensee's fitness to engage in the practice
17 of public accountancy; and
- 18 (10) Dishonesty or gross negligence in the performance of quality peer reviews.

19 In lieu of or in addition to any remedy specifically provided in this section, the board may
20 require of a licensee a quality peer review conducted in such manner as the board may specify
21 or satisfactory completion of such continuing professional education programs as the board may
22 specify, or both.

23 In any proceeding in which a remedy provided by this section is imposed, the board may also
24 require the respondent licensee to pay some or all of the costs of the proceeding.

25 Section 14. That § 36-20A-24 be amended to read as follows:

1 36-20A-24. If the board renders a decision imposing discipline against a licensee under this
2 chapter, the board shall examine its records to determine whether the licensee holds a certificate,
3 license, or a permit to practice public accountancy in any other state. If so, the board shall notify
4 the board of accountancy of such other state of its decision, by mail, within thirty days of
5 rendering the decision. The board may also furnish information relating to proceedings resulting
6 in disciplinary action with other public authorities and with private professional organizations
7 having a disciplinary interest in the licensee.

8 Section 15. That § 36-20A-25 be amended to read as follows:

9 36-20A-25. If the board has suspended or revoked a certificate, license, or a permit, or
10 refused to renew a certificate, license, or permit, the board may, upon application in writing by
11 the person or firm affected and for good cause shown, modify the suspension or reissue the
12 certificate, license, or permit. The board shall, by rule promulgated pursuant to chapter 1-26,
13 specify the manner in which such applications shall be made, the times within which they shall
14 be made and the circumstances in which hearings shall be held thereon. Before reissuing, or
15 terminating the suspension of, a certificate, license, or permit under this section, and as a
16 condition thereto, the board may require the applicant therefor to show successful completion
17 of specified continuing professional education. The board may make the reinstatement of a
18 certificate, license, or permit conditional, and subject to satisfactory completion of a quality peer
19 review conducted in such manner as the board may specify.

20 Section 16. That § 36-20A-26 be amended to read as follows:

21 36-20A-26. No person or firm not holding a valid permit issued pursuant to § 36-20A-10,
22 36-20A-11, or 36-20A-14 may issue a report on financial statements of any other person, firm,
23 organization, or governmental unit. ~~Report~~ The term, report, if used with reference to financial
24 statements, means an opinion, report, or other form of language which states or implies
25 assurance as to the reliability of any financial statements and which also includes or is

1 accompanied by any statement or implication that the person or firm issuing it has special
2 knowledge or competence in accounting or auditing. Such a statement or implication of special
3 knowledge or competency may arise from use by the issuer of the report of names or titles
4 indicating that the issuer is an accountant or auditor, or from the language of the report itself.
5 The term, report, includes any form of language which disclaims an opinion when such form of
6 language is conventionally understood to imply any positive assurance as to the reliability of the
7 financial statements referred to or special competence on the part of the person or firm issuing
8 such language; and it includes any other form of language that is conventionally understood to
9 imply such assurance or such special knowledge or competence. This prohibition does not apply
10 to an officer, partner, member, or employee of any firm or organization affixing ~~his~~ the person's
11 signature to any statement or report in reference to the financial affairs of such firm or
12 organization with any wording designating the position, title, or office that ~~he~~ the person holds
13 therein; nor prohibit any act of a public official or employee in the performance of ~~his~~ the
14 person's duties as such; nor prohibit the performance by persons other than licensees of other
15 services involving the use of accounting skills, including the preparation of tax returns and the
16 preparation of financial statements without the issuance of reports thereon.

17 The prohibition contained in this section is applicable to issuance, by a person or firm not
18 holding a valid permit, of a report using any form of language conventionally used by licensees
19 respecting a review or compilation of financial information.

20 Any person who violates the provisions of this section is guilty of a Class 2 misdemeanor.

21 Section 17. That § 36-20A-27 be amended to read as follows:

22 36-20A-27. ~~No person not a current~~ Any person who is a licensee may use or assume the
23 title or designation, certified public accountant, or the abbreviation CPA, or any other title,
24 designation, words, letters, abbreviation, sign, card, or device ~~tending to indicate~~ indicating that
25 such person is a certified public accountant. However, a holder of a certificate who does not also

1 hold a permit, may use the titles pertaining to such certificate in any manner not prohibited by
2 rule promulgated by the board pursuant to chapter 1-26. Use of the designation by a licensee in
3 inactive status is restricted as prescribed by rules promulgated by the board pursuant to chapter
4 1-26.

5 No firm may assume or use the title or designation, certified public accountant, or the
6 abbreviation CPA, or any other title, designation, words, letters, abbreviation, sign, card, or
7 device ~~tending to indicate~~ indicating that such firm is composed of certified public accountants
8 unless:

- 9 (1) The firm holds a valid permit pursuant to § 36-20A-14; and
- 10 (2) All partners, officers, members, and shareholders of the firm hold certificates.

11 No person may assume or use the title or designation, public accountant, or the abbreviation
12 PA, or any other title, designation, words, letters, abbreviation, sign, card, or device ~~tending to~~
13 ~~indicate~~ indicating that such person is a public accountant unless ~~he~~ the person holds a public
14 accountant's license issued under prior law. However, a holder of a license issued under prior law
15 who does not also hold a permit, may use the titles pertaining to such license in any manner not
16 prohibited by rule promulgated pursuant to chapter 1-26 by the board.

17 No firm not holding a valid permit issued pursuant to § 36-20A-14 may assume or use the
18 title or designation, public accountant, or the abbreviation PA, or any other title, designation,
19 words, letters, abbreviation, sign, card, or device ~~tending to indicate~~ indicating that such firm is
20 composed of public accountants. ~~No~~ Any person or firm that does not holding hold a valid
21 permit issued pursuant to § 36-20A-10, 36-20A-11, or 36-20A-14 may not assume or use the
22 title or designation, certified accountant, chartered accountant, enrolled accountant, licensed
23 accountant, registered accountant, accredited accountant, or any other title or designation likely
24 to be confused with the titles, certified public accountant or public accountant. ~~However, a~~
25 ~~holder of a certificate issued pursuant to § 36-20A-8, or of a license issued under prior law who~~

1 ~~does not also hold a permit, may use the titles pertaining to such certificate or license in any~~
2 ~~manner not prohibited by rules promulgated by the Board of Accountancy:~~

3 ~~— No person or firm not holding a valid permit issued pursuant to § 36-20A-10, 36-20A-11,~~
4 ~~or 36-20A-14 may assume or use any title or designation that includes the words, accountant,~~
5 ~~auditor, or accounting, in connection with any other language including the language of a report~~
6 ~~which implies that such person or firm holds such a permit or has special competence as an~~
7 ~~accountant or auditor. However, this does not prohibit any officer, member, partner, or employee~~
8 ~~of any firm or organization from affixing his signature to any statement or report in reference to~~
9 ~~the financial affairs of such firm or organization with any wording designating the position, title,~~
10 ~~or office that he holds therein, nor prohibit any act of a public official or employee in the~~
11 ~~performance of his duties as such:~~

12 Any person or firm who violates the provisions of this section is guilty of a Class 2
13 misdemeanor.

14 Section 18. That chapter 36-20A be amended by adding thereto a NEW SECTION to read
15 as follows:

16 Any person or firm that does not hold a valid permit issued pursuant to § 36-20A-10, 36-
17 20A-11, or 36-20A-14 may not assume or use any title or designation that includes the words,
18 accountant, auditor, or accounting, in connection with any other language including the language
19 of a report which implies that such person or firm holds such a permit or has special competence
20 as an accountant or auditor. However, this does not prohibit any officer, member, partner, or
21 employee of any firm or organization from affixing the person's signature to any statement or
22 report in reference to the financial affairs of such firm or organization with any wording
23 designating the position, title, or office that the person holds therein, nor prohibit any act of a
24 public official or employee in the performance of the person's duties as such.

25 Any person or firm who violates the provisions of this section is guilty of a Class 2

1 misdemeanor.

2 Section 19. That § 36-20A-28 be amended to read as follows:

3 36-20A-28. No person holding a certificate or a license issued under prior law may engage
4 in the practice of public accountancy unless ~~he~~ the person also holds a valid permit issued
5 pursuant to § 36-20A-10 or 36-20A-11, or ~~he~~ the person is an employee and not a partner,
6 officer, member, or shareholder of a firm holding such a permit issued pursuant to § 36-20A-14
7 and has not been such an employee long enough to meet the experience requirement prescribed
8 by § 36-20A-10 for an individual permit to practice.

9 No firm may engage in the practice of public accountancy unless it holds a valid permit issued
10 pursuant to § 36-20A-14.

11 Any person or firm who violates the provisions of this section is guilty of a Class 2
12 misdemeanor.

13 Section 20. That § 36-20A-32 be amended to read as follows:

14 36-20A-32. If the ~~Board of Accountancy~~ board has suspended a certificate, license, or a
15 permit or has refused to renew a certificate, license, or permit for a specified period of time and
16 the specified period of time has elapsed, the board may, upon application in writing by the person
17 or firm affected and for good cause shown, reinstate or reissue the certificate, license, or permit.
18 The board shall by rule promulgated pursuant to chapter 1-26 specify the manner in which the
19 application shall be made, the time period within which the application shall be made, and the
20 circumstances in which a hearing shall be held on the application. Before reissuing or reinstating
21 the certificate, license, or permit under this section, and as a condition thereto, the board may
22 require the applicant to show successful completion of specified continuing professional
23 education. The board may make the reinstatement of a certificate, license, or permit conditional,
24 and subject to satisfactory completion of a quality peer review conducted in such manner as the
25 board may specify.

1 Section 21. That § 36-20A-33 be amended to read as follows:

2 36-20A-33. The board may, by rule promulgated pursuant to chapter 1-26, establish
3 requirements whereby personnel of any firm subject to quality peer review and any reviewer
4 performing a quality peer review shall attend a quality peer review seminar.

5 The board may by rule promulgated pursuant to chapter 1-26 establish requirements whereby
6 personnel of any firm subject to quality peer review and any reviewer performing quality peer
7 review shall purchase a quality peer review manual.

8 Section 22. That chapter 36-20A be amended by adding thereto a NEW SECTION to read
9 as follows:

10 The board shall renew certificates and licenses of individuals not holding individual permits
11 to practice, who reside or are employed in this state. Any certificate issued pursuant to § 36-
12 20A-8 or by another state or any license issued under prior law must be renewed for periods of
13 one year but in any event expiring on the renewal date as established by the board by rule
14 promulgated pursuant to chapter 1-26. The board shall, by rule promulgated pursuant to chapter
15 1-26, establish the renewal date for such a certificate. The board may, by rule promulgated
16 pursuant to chapter 1-26, increase the fee for the renewal of a certificate or license after it has
17 expired. Applications for renewal of a certificate or license shall be made in such form as the
18 board shall specify by rule promulgated pursuant to chapter 1-26.

19 The board may establish a continuing professional education requirement for renewal of a
20 certificate or license. However, no such requirement may be established prior to July 1, 2002.
21 The board may provide, by rule promulgated pursuant to chapter 1-26, the kinds and subjects
22 of education, the number of hours of education required annually, and procedures for prorating
23 continuing professional education requirements for applicants whose certificate was issued less
24 than three years before the renewal date.

25 A certificate or license holder may be considered exempt from the continuing professional

1 education requirement by requesting an inactive status. The board shall establish, by rule
2 promulgated pursuant to chapter 1-26, requirements for an active and an inactive status.

3 Each certificate or license holder shall notify the board in writing within thirty days after its
4 occurrence of any change in employment or address.

1 **BILL HISTORY**

2 1/12/99 First read in House and referred to Commerce. H.J. 42

3 1/21/99 Scheduled for Committee hearing on this date.

4 1/26/99 Scheduled for Committee hearing on this date.

5 1/26/99 Commerce Do Pass Amended, Passed, AYES 12, NAYS 1. H.J. 185

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

736C0589

SENATE LOCAL GOVERNMENT
COMMITTEE ENGROSSED NO. **SB87** -
2/4/99

Introduced by: Senators Halverson, Brosz, Ham, and Olson and Representatives Diedrich
(Larry), Hunt, and McNenny

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to the annual property
2 tax bill.

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

4 Section 1. That § 10-21-1.1 be amended to read as follows:

5 10-21-1.1. The county treasurer shall send a written tax bill to each taxpayer against whom
6 a property tax has been assessed. Property tax bills sent to taxpayers may reflect the breakdown
7 of the tax by tax levies. The property tax bill shall also separately state the amount of any taxes
8 due as a result of a local decision to exceed the tax increase limits set forth in § 10-13-36 or
9 10-12-43 and shall be marked by an asterisk. The notice shall include the statement:
10 "INDICATES A LOCAL DECISION TO OPT OUT OF THE TAX FREEZE." If the local vote
11 to increase taxes had not passed, your taxes would not have included the items marked with an
12 asterisk (*). If the treasurer does not mail the property tax receipts described in §§ 10-21-14 and
13 10-21-15, the treasurer shall indicate in the property tax bill or a notice enclosed with the bill that
14 the treasurer does not intend to send a receipt unless requested by the taxpayer. The county
15 treasurer shall provide to a taxpayer a tax levy sheet, if the tax levy breakdown is not shown on

1 the tax bill, or upon the taxpayer's request. The annual levy sheet shall contain an example of the
2 computation of the total tax for an individual. The secretary of revenue shall prescribe a uniform
3 form which shall be used by the county treasurer for notification of taxpayers as required by this
4 section.

1 **BILL HISTORY**

2 1/21/99 First read in Senate and referred to Local Government. S.J. 146

3 1/27/99 Scheduled for Committee hearing on this date.

4 2/1/99 Scheduled for Committee hearing on this date.

5 2/3/99 Scheduled for Committee hearing on this date.

6 2/3/99 Local Government Do Pass Amended, Passed, AYES 5, NAYS 1. S.J. 316

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

336C0034

SENATE JUDICIARY COMMITTEE
ENGROSSED NO. **SB102** - 2/4/99

Introduced by: Senators Brosz, Albers, Lawler, and Moore and Representatives Broderick, Fryslie, Konold, and Solum

1 FOR AN ACT ENTITLED, An Act to require a criminal history check for certain employees or
2 potential employees of assisted living centers.

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

4 Section 1. Except as otherwise provided in this Act, before any assisted living center that is
5 required to be licensed pursuant to § 34-12-2 makes an offer to employ or to contract with a
6 nonlicensed person to provide nursing care, health-related services, medic services, or supportive
7 assistance to any individual, the assisted living center shall request that a criminal history check
8 be conducted on the nonlicensed person. If the assisted living center is part of a larger complex
9 of buildings, the requirement of a criminal history check applies only to an offer of employment
10 or contract made to a nonlicensed person who will work primarily in the immediate boundaries
11 of assisted living center.

12 Section 2. The assisted living center may obtain the criminal history record maintained by the
13 Division of Criminal Investigation of a nonlicensed person offering to provide nursing care,
14 health-related services, or supportive services to any individual. The assisted living center shall
15 request the division to conduct a criminal history check on the nonlicensed person and shall
16 provide the division any relevant information required by the division to conduct the check.

1 Section 3. The assisted living center may make an offer of temporary employment to a
2 nonlicensed person pending the results of the criminal history check on the person required in
3 section 1 of this Act. In such instances, the assisted living center shall provide to the Division of
4 Criminal Investigation the name and relevant information relating to the person within seventy-
5 two hours after the date the person accepts temporary employment.

6 Section 4. The Division of Criminal Investigation shall provide to the assisted living center
7 the criminal history records of any person being investigated.

8 Section 5. Any assisted living center shall inform each applicant for employment or each
9 prospective contract provider that the assisted living center is required to obtain a criminal
10 history record before making an offer of employment to, or contracting with, a nonlicensed
11 person.

12 Section 6. If the results of a criminal history check reveal that any nonlicensed person has
13 been convicted of any of the following offenses, the assisted living center may not hire or
14 contract with the person:

- 15 (1) Homicide;
- 16 (2) Assault;
- 17 (3) Rape and sexual contact;
- 18 (4) Kidnapping and false imprisonment;
- 19 (5) Arson;
- 20 (6) Criminal damage to property;
- 21 (7) Burglary;
- 22 (8) Robbery;
- 23 (9) Sexual offenses; or
- 24 (10) Abuse or neglect of disabled adults.

25 Section 7. If the results of a criminal history check reveal that a nonlicensed person hired on

1 a temporary basis or any other person who is an employee has been convicted of any of the
2 offenses listed in section 6 of this Act, the assisted living center shall immediately terminate the
3 person's employment.

4 Section 8. The provisions of sections 6 and 7 of this Act do not apply to an employee or
5 contract provider who has been employed in the assisted living center for twenty-four months
6 of the preceding thirty-six months or a person who has received a pardon of any relevant
7 conviction. The assisted living center may waive the provisions of sections 6 and 7 of this Act
8 for mitigating circumstances, which include:

- 9 (1) Age at which the crime was committed;
- 10 (2) Circumstances surrounding the crime;
- 11 (3) Length of time since the conviction;
- 12 (4) Criminal history since the conviction;
- 13 (5) Work history;
- 14 (6) Current employment references;
- 15 (7) Character references;
- 16 (8) Nurse aide registry records;
- 17 (9) Other evidence demonstrating the ability of the person to perform the employment
18 responsibilities competently and that the person does not pose a threat to the health
19 or safety of patients or clients.

20 The granting of a waiver does not create an obligation upon the assisted living center to offer
21 permanent employment to the person.

22 Section 9. All criminal history records received by an assisted living center pursuant to this
23 Act are confidential and are restricted to the exclusive use of the Department of Health and the
24 assisted living center requesting the information. Except by court order or with the written
25 consent of the person being investigated, the records or information obtained from or regarding

1 the records may not be released or otherwise disclosed to any other person or agency. The
2 records shall be destroyed after one year from the termination of employment of the person to
3 whom such records relate. However, upon receipt of written consent by an applicant for
4 employment with a health provider, the assisted living center in receipt of a criminal history
5 check may send a copy to the employer seeking the referral.

6 Section 10. The Department of Health shall review the employment files of any facility or
7 agency required to obtain criminal history records under this Act to ensure such facilities are in
8 compliance with the provisions of this Act.

9 Section 11. No nonlicensed person hired on a temporary basis and terminated pursuant to
10 the provisions of this Act is eligible for unemployment compensation.

1 **BILL HISTORY**

2 1/22/99 First read in Senate and referred to Judiciary. S.J. 160

3 1/25/99 Scheduled for Committee hearing on this date.

4 1/25/99 Judiciary Do Pass Amended, Passed, AYES 7, NAYS 0. S.J. 173

5 1/26/99 Referred to Judiciary. S.J. 193

6 1/29/99 Scheduled for Committee hearing on this date.

7 2/3/99 Judiciary Do Pass Amended, Passed, AYES 4, NAYS 0. S.J. 313

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

345C0542

SENATE STATE AFFAIRS COMMITTEE

ENGROSSED NO. **SB120** - 2/4/99

Introduced by: Senators Olson, Benson, Daugaard, Dennert, and Symens and Representatives Jaspers, Burg, Chicoine, Crisp, Fischer-Clemens, Fryslie, Haley, Kazmerzak, Nachtigal, Patterson, and Waltman

1 FOR AN ACT ENTITLED, An Act to authorize REDI fund loans for certain value-added
2 agricultural projects and activities.

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

4 Section 1. That chapter 1-16G be amended by adding thereto a NEW SECTION to read as
5 follows:

6 The Board of Economic Development shall promulgate rules pursuant to chapter 1-26 to
7 make loans from the revolving economic development and initiative fund for value-added
8 agricultural projects and activities. The rules shall establish criteria for the qualification,
9 application, payment, and repayment of funds. Such criteria shall be appropriate to the needs and
10 characteristics of value-added agricultural projects and activities. The rules shall exempt the
11 proposed projects and activities from primary industry and primary job creation requirements and
12 shall specify circumstances under which matching requirements may be rescinded or modified.

1 **BILL HISTORY**

2 1/25/99 First read in Senate and referred to State Affairs. S.J. 177

3 2/3/99 Scheduled for Committee hearing on this date.

4 2/3/99 State Affairs Do Pass Amended, Passed, AYES 8, NAYS 1. S.J. 312

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

993C0555

SENATE STATE AFFAIRS COMMITTEE

ENGROSSED NO. **SB156** - 2/4/99

Introduced by: Senators Hainje, Drake, Lawler, and Paisley and Representatives Cutler,
Eccarius, and Lucas

1 FOR AN ACT ENTITLED, An Act to restrict the placement of automated teller machines in the
2 proximity of video lottery terminals.

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

4 Section 1. That § 42-7A-37.1 be amended to read as follows:

5 42-7A-37.1. A business licensed pursuant to subdivisions 35-4-2(12) and (16) may not be
6 a licensed establishment for video lottery placement pursuant to subdivision 42-7A-1(6) unless
7 it is a bar or lounge. For the purposes of this section, a bar or lounge is an enterprise primarily
8 maintained and operated for the selling, dispensing and consumption of alcoholic beverages on
9 the premises and may also include the sale and service of food. A bar or lounge may be physically
10 connected to another enterprise within the same building, which enterprise may be owned or
11 operated by the same person. There may be interior access between a bar or lounge and a
12 connected enterprise. However, there shall be a floor to ceiling opaque wall separation between
13 the two enterprises. A separation wall may be constructed to provide visual and physical access
14 for employees from areas in the building not open to the public. The bar or lounge shall have a
15 separate entrance and exit. A separate entrance and exit is not required if entrance to the bar may
16 only be obtained from the other distinct enterprise and the public may not enter the other

1 enterprise by first passing through the bar or lounge. No automated teller machine or remote
2 service unit, as defined in § 51A-8-1, may be located in the bar or lounge. All video lottery
3 machines shall be adequately monitored during business hours. Adequate monitoring shall be
4 accomplished by the personal presence of an employee or by an employee using video cameras
5 or mirrors and periodic inspections of the bar or lounge. No new license may be issued to any
6 establishment after July 1, 1992, unless such establishment complies with this section. No license
7 may be renewed to any establishment after July 1, 1993, unless such establishment complies with
8 this section.

1 **BILL HISTORY**

2 1/26/99 First read in Senate and referred to State Affairs. S.J. 198

3 2/3/99 Scheduled for Committee hearing on this date.

4 2/3/99 State Affairs Do Pass Amended, Passed, AYES 6, NAYS 3. S.J. 312

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

834C0468

SENATE COMMERCE COMMITTEE

ENGROSSED NO. **SB161** - 2/2/99

Introduced by: Senators Daugaard, Brosz, Duxbury, Flowers, Halverson, Hutmacher, Paisley, Shoener, and Symens and Representatives Cutler, Apa, Brown (Richard), Duenwald, Fiegen, Haley, Jaspers, Koskan, McNenny, Napoli, Peterson, Waltman, and Wilson

1 FOR AN ACT ENTITLED, An Act to classify certain manufactured homes as real property for
2 property tax purposes, to establish a procedure for bringing taxes current and issuing certain
3 permits, and to establish certain penalties.

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

5 Section 1. That § 10-4-2.4 be amended to read as follows:

6 10-4-2.4. Real property, for the purposes of ad valorem taxation, includes manufactured
7 homes as defined in subdivision 32-3-1(6) with a model year of ~~1997~~ 1994 or newer. This section
8 does not apply to any manufactured home in the inventory of any dealer as defined in subdivision
9 32-7A-1(1).

10 Section 2. That § 10-4-2.6 be amended to read as follows:

11 10-4-2.6. If a manufactured home with a model year of ~~1997~~ 1994 or newer, is sold by a
12 licensed manufactured home dealer, the dealer shall complete the manufactured home listing
13 form, as prescribed by the secretary of revenue, and send the completed form to the director of
14 equalization of the county in which the manufactured home was delivered. The form shall be sent
15 within thirty days after the delivery of the manufactured home.

1 Section 3. That § 10-4-2.4 be amended to read as follows:

2 10-4-2.4. Real property, for the purposes of ad valorem taxation, includes manufactured
3 homes as defined in subdivision 32-3-1(6) with a model year of ~~1997~~ 1990 or newer. This section
4 does not apply to any manufactured home in the inventory of any dealer as defined in subdivision
5 32-7A-1(1).

6 Section 4. That § 10-4-2.6 be amended to read as follows:

7 10-4-2.6. If a manufactured home with a model year of ~~1997~~ 1990 or newer, is sold by a
8 licensed manufactured home dealer, the dealer shall complete the manufactured home listing
9 form, as prescribed by the secretary of revenue, and send the completed form to the director of
10 equalization of the county in which the manufactured home was delivered. The form shall be sent
11 within thirty days after the delivery of the manufactured home.

12 Section 5. The effective date of sections 3 and 4 of this Act is July 1, 2000.

13 Section 6. That § 10-4-2.4 be amended to read as follows:

14 10-4-2.4. Real property, for the purposes of ad valorem taxation, includes manufactured
15 homes as defined in subdivision 32-3-1(6) with a model year of ~~1997~~ 1985 or newer. This section
16 does not apply to any manufactured home in the inventory of any dealer as defined in subdivision
17 32-7A-1(1).

18 Section 7. That § 10-4-2.6 be amended to read as follows:

19 10-4-2.6. If a manufactured home with a model year of ~~1997~~ 1985 or newer, is sold by a
20 licensed manufactured home dealer, the dealer shall complete the manufactured home listing
21 form, as prescribed by the secretary of revenue, and send the completed form to the director of
22 equalization of the county in which the manufactured home was delivered. The form shall be sent
23 within thirty days after the delivery of the manufactured home.

24 Section 8. The effective date of sections 6 and 7 of this Act is July 1, 2001.

25 Section 9. That § 10-4-2.4 be amended to read as follows:

1 10-4-2.4. Real property, for the purposes of ad valorem taxation, includes manufactured
2 homes as defined in subdivision 32-3-1(6) with a model year of ~~1997~~ 1977 or newer. This section
3 does not apply to any manufactured home in the inventory of any dealer as defined in subdivision
4 32-7A-1(1).

5 Section 10. That § 10-4-2.6 be amended to read as follows:

6 10-4-2.6. If a manufactured home with a model year of ~~1997~~ 1977 or newer, is sold by a
7 licensed manufactured home dealer, the dealer shall complete the manufactured home listing
8 form, as prescribed by the secretary of revenue, and send the completed form to the director of
9 equalization of the county in which the manufactured home was delivered. The form shall be sent
10 within thirty days after the delivery of the manufactured home.

11 Section 11. The effective date of sections 9 and 10 of this Act is July 1, 2002.

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

14 If a manufactured home is purchased or moved to a specific site after November first and the
15 manufactured home is moved, sold, transferred, or reassigned before November first in the
16 following year, no property taxes are due. The county treasurer shall issue an affidavit stating
17 that no taxes are due.

18 Section 13. That chapter 10-6 be amended by adding thereto a NEW SECTION to read as
19 follows:

20 If a manufactured home is purchased or moved to a specific site on or before November first
21 and the property has been assessed as real property and the owner of the manufactured home
22 plans to move, sell, transfer, or reassign the manufactured home before November first in the
23 following year, the county auditor shall levy a tax by applying the tax levy used for taxes payable
24 during the current year on other property in the same taxing district. The owner shall pay such
25 tax in full for the current year, not on a pro rata basis. If the taxes are paid in full, the county

1 treasurer shall issue an affidavit stating that the current year's taxes are paid.

2 Section 14. That chapter 10-6 be amended by adding thereto a NEW SECTION to read as
3 follows:

4 If a manufactured home has been assessed as real property and taxes are payable and the
5 owner of the manufactured home plans to move, sell, transfer, or reassign the manufactured
6 home before all the current taxes are paid, then the owner shall pay the current taxes in full, not
7 on a pro rata basis. If the taxes are paid in full, the county treasurer shall issue an affidavit stating
8 that the current year's taxes are paid.

9 Section 15. That § 32-5-16.3 be amended to read as follows:

10 32-5-16.3. Any person who moves a mobile home or manufactured home shall obtain a
11 permit, as prescribed by the secretary of revenue, from the county treasurer where the home is
12 located. The permit fee is valid for a single trip from the point of origin to a point of destination
13 within the state. Before the county treasurer may issue a permit, the owner of the mobile home
14 or manufactured home shall obtain an affidavit from the county treasurer stating that the current
15 year's taxes are paid as described in sections 12 to 14, inclusive, of this Act or § 10-9-3. The
16 permit fee for mobile homes and manufactured homes for use on the public highways is fifteen
17 dollars. ~~The permit is valid for a single trip from the point of origin to a point of destination~~
18 ~~within the state.~~ The fees collected shall be credited to the license plate special revenue fund. The
19 fee and permit imposed by this section does not apply to a new or used mobile home or
20 manufactured home ~~being delivered from the dealer to the purchaser~~ transported by a dealer
21 licensed under chapter 32-7A. A violation of this section is a Class 2 misdemeanor.

22 Section 16. That § 32-7A-17 be amended to read as follows:

23 32-7A-17. Any transfer or reassignment of a mobile home or manufactured home title shall
24 be accompanied by an affidavit issued by the county treasurer of the county in which the mobile
25 home or manufactured home is registered, stating that the current year's taxes are paid. The

1 county treasurer shall apply the requirements of section 12 to 14, inclusive, of this Act to
2 determine if the current year's taxes are paid. No title may be transferred until the taxes under
3 § 10-9-3 or 10-21-4 are paid. No transfer of title may be completed unless the mobile home or
4 manufactured home is registered as provided in § 10-9-3 or 10-4-2.6. In any event the title or
5 manufacturer's statement of origin shall be transferred within thirty days of delivery of the
6 manufactured home or mobile home. A violation of this section is a ~~Class 2~~ Class 1
7 misdemeanor.

8 Section 17. That § 32-7A-4.2 be amended by adding thereto a NEW SUBDIVISION to read
9 as follows:

10 Transporting a used mobile home or manufactured home without an affidavit, from the
11 county treasurer of the county in which the mobile home or manufactured home is registered,
12 stating that the current year's taxes are paid.

13 Section 18. That § 32-7A-11 be amended to read as follows:

14 32-7A-11. New and used mobile homes and manufactured homes owned by a dealer may be
15 transported upon the streets and highways to the dealer's place of business and to the purchaser
16 of such a home and between a dealer's place of business and a supplemental lot or a temporary
17 supplemental lot. Any transport of a mobile home or manufactured home by a dealer shall be
18 accompanied with a permit stating the point of origin and the point of destination. The dealer
19 shall provide a copy of the permit to the director of equalization in the county of origin and to
20 the director of equalization in the county of destination.

1 **BILL HISTORY**

2 1/27/99 First read in Senate and referred to Commerce. S.J. 213

3 2/2/99 Scheduled for Committee hearing on this date.

4 2/2/99 Commerce Do Pass Amended, Passed, AYES 7, NAYS 0. S.J. 295

5 2/2/99 Commerce Place on Consent Calendar.

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

385C0572

SENATE JUDICIARY COMMITTEE
ENGROSSED NO. **SB188** - 2/4/99

Introduced by: Senators Lange, Drake, Moore, Staggers, and Valandra and Representatives Koetzle, Hagen, Haley, Jaspers, Kooistra, Lucas, Solum, Weber, and Wilson

1 FOR AN ACT ENTITLED, An Act to limit the application of capital punishment.

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

3 Section 1. That chapter 23A-7A be amended by adding thereto a NEW SECTION to read
4 as follows:

5 Notwithstanding any other provisions of this chapter, no judge may impose the death penalty
6 against any defendant if:

7 (1) The defendant was less than sixteen years of age at the time when the offense
8 occurred; or

9 (2) The defendant was mentally retarded within the meaning of § 27B-1-1 at the time
10 when the offense occurred.

1 **BILL HISTORY**

2 1/28/99 First read in Senate and referred to Judiciary. S.J. 232

3 2/3/99 Scheduled for Committee hearing on this date.

4 2/3/99 Judiciary Do Pass Amended, Passed, AYES 5, NAYS 2. S.J. 314

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

400C0866

SENATE JUDICIARY COMMITTEE ENGROSSED NO. **SB246** - 2/4/99

Introduced by: The Committee on Judiciary at the request of the Governor

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the service of a
2 summons.

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

4 Section 1. That § 15-6-4(c) be amended to read as follows:

5 15-6-4(c). The summons may be served by the sheriff or a constable of the county or other
6 comparable political subdivision where the defendant may be found, or in the District of
7 Columbia by the United States marshal or a deputy, or by any other person not a party to the
8 action who at the time of making such service is an elector of the any state in which such service
9 is to be made. If the defendant to be served is an Indian residing in Indian country, the summons
10 may be served by a person not a party to the action who at the time of making such service is an
11 elector of any state. The service shall be made and the summons returned with proof of the
12 service, with all reasonable diligence, to the plaintiff's attorney, if any, otherwise to the plaintiff.
13 The plaintiff or the plaintiff's attorney may by endorsement on the summons fix a time for the
14 service thereof, and the service shall be made accordingly.

1 **BILL HISTORY**

2 2/1/99 First read in Senate and referred to Judiciary. S.J. 280

3 2/3/99 Scheduled for Committee hearing on this date.

4 2/3/99 Judiciary Do Pass Amended, Passed, AYES 7, NAYS 0. S.J. 315

5 2/3/99 Judiciary Place on Consent Calendar.