

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

285D0034

HOUSE ENGROSSED NO. **HB1004** - 1/20/00

Introduced by: Representatives McNenny, Chicoine, Engbrecht, Juhnke, Lintz, Sebert, Slaughter, Sutton (Duane), Waltman, and Young and Senators Symens, Madden, Paisley, and Vitter at the request of the Interim Tax Assessment Committee

1 FOR AN ACT ENTITLED, An Act to repeal and revise certain provisions concerning the annual
2 assessment of property.

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

4 Section 1. That § 10-6-3 be repealed.

5 ~~—10-6-3. So as to remain consistent with the intents and purposes of chapter 32-6B, the~~
6 "assessment date" within the meaning of said chapter shall be January second.

7 Section 2. That § 10-6-6 be repealed.

8 ~~—10-6-6. The director of equalization shall call at the office, place of business, or residence of~~
9 ~~each person required by this chapter to list property and list his name, and shall require such~~
10 ~~person to make a correct statement of his property in accordance with the provisions of this~~
11 ~~chapter, and every person so required shall enter a true and correct statement of such property~~
12 ~~in the form prescribed, which statement shall be signed and verified by the oath of the person~~
13 ~~listing the property and delivered to the director, who shall thereupon assess the value of such~~
14 ~~property and enter the same in his books. If any property is assessed on or after the last day of~~
15 ~~June, and before the return of the director's books, the same shall be as legal and binding as if~~

1 assessed before that time.

2 Section 3. That § 10-6-9 be repealed.

3 ~~10-6-9. Whenever one member of a firm, or one of the proper officers of a corporation, has~~
4 ~~made a statement showing the property of the firm, another officer need not include such~~
5 ~~property in the statement made by him; but this statement must show the name of the person or~~
6 ~~officer who made the statement in which such property is included. The fact that such statement~~
7 ~~is not required, or that a person has not made such statement under oath, or otherwise, does not~~
8 ~~relieve his property from taxation.~~

9 Section 4. That § 10-6-17 be repealed.

10 ~~10-6-17. If any person required to list property for taxation is prevented by sickness or~~
11 ~~absence from giving to the director of equalization such statement, such person or his agent~~
12 ~~having charge of such property may, at any time before the extension of taxes thereon by the~~
13 ~~county auditor, make out and deliver to the county auditor a statement of the same as required~~
14 ~~by this chapter, and the county auditor in such case shall make an entry thereof and correct the~~
15 ~~corresponding item or items in the return made by the director, as the case may require; but no~~
16 ~~such statement shall be received by the county auditor from any person who refused or neglected~~
17 ~~to make oath to his statement when required by the director as provided herein, nor from any~~
18 ~~person unless he makes and files with the county auditor an affidavit that he was absent from his~~
19 ~~third class municipality or district without design to avoid the listing of his property, or was~~
20 ~~prevented by sickness from giving the director the required statement when called upon for that~~
21 ~~purpose.~~

22 Section 5. That § 10-6-25 be amended to read as follows:

23 10-6-25. For the purpose of properly assessing property for taxation and equalizing and
24 collecting taxes, the county director of equalization or ~~his~~ the director's deputy shall personally
25 inspect and examine all property listed and assessed. The director or ~~his~~ the director's deputies

1 may inspect and examine the records of all public offices and the books and papers relating to
2 the fair market value of the property being assessed of all corporations, banks, and taxpayers in
3 this state, without charge. The director or ~~his~~ the director's deputies ~~or municipal assessor~~ may
4 administer oaths or affirmation to any ~~and all persons~~ person in the discharge of their duties.

5 Section 6. That § 10-6-25.1 be repealed.

6 ~~—10-6-25.1. If a municipality employs an assessor, the municipal assessor shall use the identical~~
7 ~~property classifications, assessment practices, and assessment documents as the county director~~
8 ~~of equalization.~~

9 Section 7. That § 10-6-25.2 be repealed.

10 ~~—10-6-25.2. If a county contains a municipality that employs a municipal assessor, the county~~
11 ~~shall complete a reappraisal of the entire county, including all municipalities, within three years~~
12 ~~of July 1, 1989. If an independent party is employed to conduct any or all of the reappraisal, a~~
13 ~~municipality with an assessor shall be consulted prior to the selection. A municipality with an~~
14 ~~assessor shall pay a proportionate share of the cost of the reappraisal.~~

15 Section 8. That § 10-6-29 be repealed.

16 ~~—10-6-29. The director, when requested, shall deliver to the person assessed a copy of the~~
17 ~~statement of property required in § 10-6-28, showing the valuation of the property so listed,~~
18 ~~which copy shall be signed by the director.~~

19 Section 9. That § 10-6-33.11 be repealed.

20 ~~—10-6-33.11. The value determined for agricultural land pursuant to this chapter may not be~~
21 ~~placed on the property cards or used as a basis for taxation before January 1, 1992.~~

22 Section 10. That § 10-6-34 be repealed.

23 ~~—10-6-34. Money subject to tax shall be entered in the statement at the full amount thereof.~~
24 ~~Every credit for a sum certain, payable in money, property of any kind, labor, or services, shall~~
25 ~~be valued at the current price of the same so payable; if for a specific article or specific number~~

1 ~~or quantity of any article or property, or for a certain amount of labor, or for services of any~~
2 ~~kind, it shall be valued at the current price of such property, or for such labor or services at the~~
3 ~~place where payable.~~

4 Section 11. That § 10-6-35.1 be amended to read as follows:

5 10-6-35.1. ~~All~~ Any new industrial structures, or additions to existing structures which new
6 ~~structures or additions have~~ structure, or an addition to an existing structure which new structure
7 or addition has a true and full value of thirty thousand dollars or more, added to real property
8 ~~are~~ is specifically classified for the purpose of taxation.

9 ~~— All real property qualifying under this section not completed before January 1, 1974, as~~
10 ~~determined by the director of equalization shall be classified in the manner prescribed in this~~
11 ~~section.~~

12 Section 12. That § 10-6-35.2 be amended to read as follows:

13 10-6-35.2. ~~Structures~~ Any structure classified pursuant to § 10-6-35.1, 10-6-35.21, 10-6-
14 35.22, 10-6-35.24, or 10-6-35.25 shall, following construction, be valued for taxation purposes
15 in the usual manner. However, the board of county commissioners of ~~such~~ the county where ~~such~~
16 ~~structures are~~ the structure is located, may adopt any formula for assessed value to be used for
17 tax purposes. The formula may include for any or all of the five tax years following construction
18 all, any portion or none of the assessed valuation for tax purposes. The board of county
19 commissioners of the county where ~~such structures are~~ the structure is located may, if requested
20 by the owner of ~~such structures~~ the structure, not apply the discretionary formula and the full
21 assessment shall be made without application of the formula. In waiving the formula for the
22 structure of one owner, the board of county commissioners is not prohibited from applying the
23 formula for subsequent new structures. The assessed valuation during any of the five years may
24 not be less than the assessed valuation of ~~such~~ the property in the year preceding the first year
25 of the tax years following construction.

1 (1) Any structure that is partially constructed on the assessment date may be valued for tax
 2 purposes pursuant to this section and the valuation may not be less than the assessed valuation
 3 of ~~such~~ the property in the year preceding the beginning of construction. During any period of
 4 time that ~~such~~ the property is valued for tax purposes pursuant to this section, the period of time
 5 may include the years when ~~such~~ the property is partially constructed. ~~The provisions of this~~
 6 ~~subdivision may apply to any structure partially completed on January 1, 1987.~~

7 (2) Thereafter ~~such~~ the property shall be assessed at the same percentage as is all other
 8 property for tax purposes.

9 Section 13. That § 10-6-35.19 be amended to read as follows:

10 10-6-35.19. ~~All~~ Any commercial, industrial, and nonresidential agricultural real property
 11 which increases more than ten thousand dollars in true and full value as a result of reconstruction
 12 or renovation of structures is specially classified for purposes of taxation.

13 ~~—All real property qualifying under this section not completed before January 1, 1980, as~~
 14 ~~determined by the director of equalization, is classified in the manner prescribed in this section.~~

15 The increase in true and full value resulting from the reconstruction or renovation of qualifying
 16 property shall be given tax treatment in the manner provided for in § 10-6-35.2.

17 Section 14. That § 10-6-35.21 be amended to read as follows:

18 10-6-35.21. ~~All~~ Any new nonresidential agricultural ~~structures, or additions to existing~~
 19 ~~structures which new structures or additions have~~ structure, or addition to an existing structure,
 20 which new structure or addition has a true and full value of ten thousand dollars or more, added
 21 to real property ~~are~~ is specifically classified for the purpose of taxation.

22 ~~—All real property qualifying under this section not completed before January 1, 1974, as~~
 23 ~~determined by the director of equalization shall be classified in the manner prescribed in this~~
 24 ~~section.~~

25 Section 15. That § 10-6-35.24 be amended to read as follows:

1 10-6-35.24. ~~All~~ Any new commercial ~~structures~~ structure, except a commercial residential
2 ~~structures, or additions to existing structures, which new structures or additions have~~ structure,
3 ~~or addition to an existing structure, which new structure or addition has~~ a true and full value of
4 thirty thousand dollars or more, added to real property ~~are~~ is specifically classified for the
5 purpose of taxation. ~~All real property qualifying under this section not completed before~~
6 ~~January 1, 1974, as determined by the director of equalization shall be classified in the manner~~
7 ~~prescribed in this section.~~

8 Section 16. That § 10-6-35.25 be amended to read as follows:

9 10-6-35.25. ~~All~~ Any new commercial residential ~~structures, or additions to existing~~
10 ~~structures, which new structures or additions have~~ structure, or addition to an existing structure,
11 which new structure or addition has a true and full value of thirty thousand dollars or more,
12 added to real property ~~are~~ is specifically classified for the purpose of taxation. ~~All real property~~
13 ~~qualifying under this section not completed before January 1, 1994, as determined by the director~~
14 ~~of equalization shall be classified in the manner prescribed in this section. For purposes of this~~
15 section, a commercial residential structure shall contain four or more units.

16 Section 17. That § 10-6-52 be repealed.

17 ~~10-6-52. The director of equalization may, at the time of making the annual assessment of~~
18 ~~property for taxation, furnish to the Department of Revenue on forms provided by the~~
19 ~~department the following statistics regarding agriculture in his county for the current year:~~

20 ~~(1) Name and post office address of the farmer or rancher (owner or operator);~~

21 ~~(2) Total acres in the farm or ranch;~~

22 ~~(3) Acres of each crop sown or planted or intended to be sown or planted;~~

23 ~~(4) Acres of tillable land used exclusively for pasturage;~~

24 ~~(5) Such other statistics relating to agriculture as may be required by the Department of~~

25 Revenue from year to year.

1 Section 18. That § 10-6-53 be repealed.

2 ~~10-6-53. Each director of equalization shall gather the agricultural statistics specified in~~
3 ~~§ 10-6-52 by personal interview with the owner, operator, foreman, manager, or agent, if any~~
4 ~~can be found, and if not, he shall obtain such information from the most reliable source.~~

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

6 10-6-54. ~~All~~ Any new residential structures, or additions to existing structures structure, or
7 addition to an existing structure, located within a redevelopment neighborhood established
8 pursuant to § 10-6-56 which ~~new structures or additions have~~ new structure or addition has a
9 true and full value of fifteen thousand dollars or more, added to real property ~~are~~ is specifically
10 classified for the purpose of taxation. ~~All such structures~~ The structure shall be located in an area
11 defined and designated as a redevelopment neighborhood based on conditions provided in
12 § 11-7-2 or 11-7-3. ~~All real property qualifying under this section not completed before~~
13 ~~January 1, 1993, as determined by the director of equalization shall be classified in the manner~~
14 ~~prescribed in this section.~~

15 Section 20. That § 10-6-55 be amended to read as follows:

16 10-6-55. ~~Structures~~ Any structure classified pursuant to § 10-6-54 shall, following
17 construction, be valued for taxation purposes in the usual manner. However, after notice to the
18 governing body of each municipality within the county, the board of county commissioners of
19 the county where ~~such structures are~~ the structure is located, may, in ~~their~~ the board's discretion,
20 adopt any formula for assessed value to be used for tax purposes. The formula may include for
21 any or all of the five tax years following construction all, any portion or none of the assessed
22 valuation for tax purposes. The assessed valuation during any of the five years may not be less
23 than the assessed valuation of ~~such~~ the property in the year preceding the first year of the tax
24 years following construction. Any structure that is partially constructed on the assessment date
25 may be valued for tax purposes pursuant to this section and the valuation may not be less than

1 the assessed valuation of ~~such~~ the property in the year preceding the beginning of construction.
2 During any period of time that ~~such~~ the property is valued for tax purposes pursuant to this
3 section, the period of time may include the years when ~~such~~ the property is partially constructed.
4 ~~The provisions of this subdivision may apply to any structure partially completed on January 1,~~
5 ~~1993.~~ Thereafter ~~such~~ the property shall be assessed at the same percentage as is all other
6 property for tax purposes.

7 Section 21. That § 10-6-67 be amended to read as follows:

8 10-6-67. Property classified pursuant to § 10-6-66 shall be valued for taxation purposes in
9 the usual manner. However, the board of county commissioners of the county where ~~such~~ the
10 property is located may, in ~~their~~ the board's discretion, adopt any formula for assessed value to
11 be used for tax purposes. The formula may include for any or all of the five tax years following
12 the filing of the plat for the subdivision all, any portion or none of the assessed valuation for tax
13 purposes. The assessed valuation during any of the five years may not be less than the assessed
14 valuation of ~~such~~ the property in the year preceding the first year of the tax years following the
15 filing of the plat for the subdivision. ~~If a plat for a subdivision was filed before January 1, 1993,~~
16 ~~and there are lots which remain unsold, such lots may be valued for tax purposes pursuant to this~~
17 ~~section and the valuation may not be less than the assessed valuation of such property in the year~~
18 ~~preceding the year when the plat for the subdivision was filed.~~ The board of county
19 commissioners of a county where property classified pursuant to § 10-6-66 is located may, in
20 ~~their~~ the board's discretion, if requested by the owner of ~~such~~ the property, not apply the
21 discretionary formula and the full assessment shall be made without application of the formula.
22 In waiving the formula for the property of one owner, the board of county commissioners is not
23 prohibited from applying the formula for subsequent property.

24 Section 22. That § 10-6-68 be repealed.

25 ~~10-6-68. For the purposes of property taxes payable in 1995 on leased school and~~

1 ~~endowment lands, the assessment date is June 1, 1994, and the valuation date is March 1, 1994.~~

2 Section 23. That § 10-11-56.5 be repealed.

3 ~~10-11-56.5. No sale of any land which is classified pursuant to § 10-6-58 may be used in any~~
4 ~~sales ratio study.~~

5 Section 24. That § 10-6-66.1 be transferred to chapter 10-13.

6 Section 25. That § 10-13-39 be amended to read as follows:

7 10-13-39. Each owner-occupied single-family dwelling in this state is specifically classified
8 for the purpose of taxation. For the purposes of this section, an owner-occupied single-family
9 dwelling is a house, condominium apartment, residential housing consisting of four or less family
10 units, town house, town home, housing cooperatives where membership in the cooperative is
11 strictly limited to stockholder occupants of the building, dwelling as classified in ~~§ 10-6-66.1~~
12 section 24 of this Act, and manufactured or mobile home as defined in § 32-3-1, which is
13 assessed and taxed as a separate unit, including an attached or unattached garage and the parcel
14 of land upon which the structure is situated as recorded in the records of the director of
15 equalization. A person may only have one dwelling classified as an owner-occupied single-family
16 dwelling. If the owner occupies fifty percent or more of the living space within the dwelling, the
17 entire dwelling is classified as an owner-occupied single-family dwelling. If the owner occupies
18 a duplex, triplex, or fourplex, or less than fifty percent of the living space within the dwelling,
19 the portion of the dwelling so occupied shall be classified as an owner-occupied single-family
20 dwelling.

21 Section 26. That §§ 10-6-70 to 10-6-73, inclusive, be transferred to chapter 10-21.

22 Section 27. That § 32-5-16.3 be amended to read as follows:

23 32-5-16.3. Any person who moves a mobile home or manufactured home shall obtain a
24 permit, as prescribed by the secretary of revenue, from the county treasurer where the home is
25 located. The permit fee is valid for a single trip from the point of origin to a point of destination

1 within the state. Before the county treasurer may issue a permit, the owner of the mobile home
2 or manufactured home shall obtain an affidavit from the county treasurer stating that the current
3 year's taxes are paid as described in ~~§§ 10-6-70 to 10-6-72, inclusive, and § 10-6-73~~ section 26
4 of this Act or § 10-9-3. The permit fee for mobile homes and manufactured homes for use on the
5 public highways is fifteen dollars. The fees collected shall be credited to the license plate special
6 revenue fund. The fee and permit imposed by this section does not apply to a new or used mobile
7 home or manufactured home transported by or for a dealer licensed under chapter 32-7A. A
8 violation of this section is a Class 2 misdemeanor.

9 Section 28. That § 32-7A-17 be amended to read as follows:

10 32-7A-17. Any transfer or reassignment of a mobile home or manufactured home title shall
11 be accompanied by an affidavit issued by the county treasurer of the county in which the mobile
12 home or manufactured home is registered, stating that the current year's taxes are paid. The
13 county treasurer shall apply the requirements of ~~§§ 10-6-70 to 10-6-72, inclusive, and § 10-6-73~~
14 section 26 of this Act to determine if the current year's taxes are paid. No title may be transferred
15 until the taxes under § 10-9-3 or 10-21-4 are paid. No transfer of title may be completed unless
16 the mobile home or manufactured home is registered as provided in § 10-9-3 or 10-4-2.6. In any
17 event the title or manufacturer's statement of origin shall be transferred within thirty days of
18 delivery of the manufactured home or mobile home. A violation of this section is a Class 2
19 misdemeanor.

20 Section 29. That § 32-7A-11 be amended to read as follows:

21 32-7A-11. New and used mobile homes and manufactured homes owned by a dealer may be
22 transported upon the streets and highways to the dealer's place of business and to the purchaser
23 of such a home and between a dealer's place of business and a supplemental lot or a temporary
24 supplemental lot. Any ~~transport of a~~ mobile home or manufactured home purchased or
25 transported by or for a dealer shall be accompanied with a permit notification form stating the

1 point of origin ~~and the point of destination~~. The dealer shall provide a copy of the permit
2 notification form to the director of equalization in the county of origin ~~and to the director of~~
3 ~~equalization in the county of destination~~.

1 **BILL HISTORY**

2 1/11/00 First read in House and referred to Taxation. H.J. 12

3 1/18/00 Scheduled for Committee hearing on this date.

4 1/18/00 Taxation Do Pass, Passed, AYES 13, NAYS 0. H.J. 110

5 1/18/00 Taxation Place on Consent Calendar.

6 1/20/00 Motion to Amend, Passed. H.J. 166

7 1/20/00 House of Representatives Do Pass Amended, Passed, AYES 67, NAYS 0. H.J. 166

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

267D0022

HOUSE JUDICIARY COMMITTEE ENGROSSED NO. **HB1046** - 1/20/00

Introduced by: Representative Munson (Donald) and Senator Paisley

1 FOR AN ACT ENTITLED, An Act to revise the benefit plans that are exempt from execution,
2 attachment, garnishment, seizure, or taking by any legal process.

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

4 Section 1. That § 43-45-17 be amended to read as follows:

5 43-45-17. For the purposes of §§ 43-45-16 to 43-45-18, inclusive, the term, employee
6 benefit plan, means any plan or arrangement that is subject to the provisions of the 29 U.S.C.
7 §§ 1001 through 1461, as amended, and in effect on January 1, ~~1997~~ 2000, or that is described
8 in § ~~401(a)~~ 401, 403(a), 403(b), 408, 408A, or 409 of the Internal Revenue Code, as amended,
9 and in effect as of January 1, ~~1997~~ 2000. The term, employee benefit plan, does not include any
10 employee benefit plan that is excluded from application pursuant to 29 U.S.C. § 1003(b)(1), as
11 amended, and in effect as of January 1, ~~1997~~ 2000.

1 **BILL HISTORY**

2 1/13/00 First read in House and referred to Judiciary. H.J. 38

3 1/19/00 Scheduled for Committee hearing on this date.

4 1/19/00 Judiciary Do Pass Amended, Passed, AYES 11, NAYS 0. H.J. 154

5 1/19/00 Judiciary Place on Consent Calendar.

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

228D0394

HOUSE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **HB1071** - 1/26/00

Introduced by: Representatives Fitzgerald, Clark, Hennies, Koehn, and Kooistra and Senators
Daugaard, Kleven, and Shoener

1 FOR AN ACT ENTITLED, An Act to provide for the disposition of certain abandoned, lost,
2 or confiscated bicycles.

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

4 Section 1. If any abandoned, lost, or confiscated bicycle is under the control or care of or has
5 been placed in storage by any local government agency or law enforcement agency and if more
6 than ninety days have passed since the bicycle first came in the possession of the local
7 government agency or law enforcement agency, the bicycle may be donated to a charitable
8 organization, veterans organization, or benevolent organization that is nonprofit and recognized
9 as tax-exempt under section 501(c)(3), 501(c)(7), 501(c)(8), 501(c)(10), or 501(c)(19) of the
10 United States Internal Revenue Code of 1986 as amended to January 1, 2000, for distribution
11 to the public based on need in a manner to be determined by the charitable, veterans, or
12 benevolent organization.

1 **BILL HISTORY**

2 1/15/00 First read in House and referred to Local Government. H.J. 54

3 1/23/00 Scheduled for Committee hearing on this date.

4 1/25/00 Scheduled for Committee hearing on this date.

5 1/25/00 Local Government Do Pass Amended, Passed, AYES 12, NAYS 0. H.J. 229

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

167D0535

HOUSE ENGROSSED NO. **HB1128** - 1/31/00

Introduced by: Representatives Brooks, Chicoine, Fischer-Clemens, Garnos, Munson (Donald),
and Sebert and Senators Drake, Duxbury, and Lange

1 FOR AN ACT ENTITLED, An Act to revise certain bylaw and quorum provisions regarding
2 cooperatives.

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

4 Section 1. That § 47-16-7 be amended to read as follows:

5 47-16-7. A quorum at a member meeting of a cooperative shall be ten percent of the first one
6 hundred members plus five percent of additional members, present in person or represented by
7 delegate. Unless the bylaws fix a larger number of members to constitute a quorum, a quorum
8 ~~shall~~ may never be more than fifty members nor less than five members, or a majority of all
9 members, whichever is smaller. Members represented by signed vote may be counted in
10 computing a quorum only on those questions as to which the signed vote is taken. The
11 sufficiency or requirement of a quorum for the transaction of business at a district meeting of
12 members shall be established in the bylaws. However, the quorum may not be less than five
13 members.

14 Section 2. That § 47-21-56 be amended to read as follows:

15 47-21-56. Unless the bylaws prescribe the presence of a greater percentage or number of the
16 members for a quorum, a quorum for the transaction of business at all meetings of the members

1 of a cooperative having not more than one thousand members, shall be five ~~percentum~~ percent
2 of all members, present in person, and of a cooperative having more than one thousand members,
3 shall be fifty members, present in person. If less than a quorum is present at any meeting, a
4 majority of those present in person may adjourn the meeting from time to time without further
5 notice. The sufficiency or requirement of a quorum for the transaction of business at a district
6 meeting of members shall be established in the bylaws. However, the quorum may not be less
7 than five members.

8 Section 3. That § 47-15-5 be amended to read as follows:

9 47-15-5. It is not necessary to set forth in the articles of incorporation any of the powers
10 granted by chapters 47-15 to 47-20, inclusive. The articles may include additional provisions,
11 consistent with law, including provisions which are required or permitted to be set forth in the
12 bylaws. Any provision required or permitted in the bylaws has equal force and effect if stated in
13 the articles. Whenever a provision of the articles is inconsistent with a bylaw, the articles control.
14 The bylaws of a cooperative may contain any provisions for the regulation and maintenance of
15 the affairs of the cooperative not inconsistent with law or the articles of incorporation.

16 Section 4. That § 47-21-19 be amended to read as follows:

17 47-21-19. The bylaws of a cooperative shall set forth the rights and duties of members and
18 directors and may contain other provisions for the regulation and management of the affairs of
19 the cooperative not inconsistent with this chapter or with its articles of incorporation. The bylaws
20 of a cooperative may contain any provisions for the regulation and maintenance of the affairs of
21 the cooperative not inconsistent with law or the articles of incorporation.

22 Section 5. That § 47-17-4 be amended to read as follows:

23 47-17-4. The directors of a cooperative constituting the temporary board, named in the
24 articles, shall hold office until the first member meeting. At that meeting and thereafter, directors
25 shall be elected by a majority of the members present at a duly called meeting of the members

1 in the manner and for the terms provided in the bylaws. If the bylaws provide that directors be
2 from specified territorial districts, the articles may limit voting for any director to members from
3 within the territorial district from which such director is to be elected. The bylaws may provide
4 that directors may be elected at district director election meetings held for said purpose. Unless
5 the bylaws provide otherwise, a director's term of office shall be one year. Each director shall
6 hold office for the term for which elected and until his successor takes office. The bylaws may
7 permit selection of alternates to take the place of directors absent at a meeting of the board.

8 Section 6. That § 47-21-20 be amended to read as follows:

9 47-21-20. The bylaws may provide for the division of the territory served or to be served by
10 a cooperative into two or more districts for any purpose, including, without limitation, the
11 nomination and election of directors and the election and functioning of district delegates. In
12 such case the bylaws shall prescribe the boundaries of the district, or the manner of establishing
13 such boundaries, and the manner of changing such boundaries, and the manner in which such
14 districts shall function. No member at any district meeting and no district delegate at any meeting
15 shall vote by proxy or by mail. The bylaws may provide that directors may be elected at district
16 director election meetings held for said purpose.

1 **BILL HISTORY**

2 1/18/00 First read in House and referred to Judiciary. H.J. 117

3 1/26/00 Scheduled for Committee hearing on this date.

4 1/26/00 Judiciary Do Pass Amended, Passed, AYES 12, NAYS 1. H.J. 251

5 1/28/00 Motion to Amend, Passed. H.J. 289

6 1/28/00 House of Representatives Do Pass Amended, Passed, AYES 62, NAYS 1. H.J. 290

7 1/28/00 House of Representatives Title Amended Passed. H.J. 290

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

168D0116

HOUSE ENGROSSED NO. **HB1140** - 2/2/00

Introduced by: Representatives Cutler, Fischer-Clemens, Koskan, and Napoli and Senators
Daugaard, Albers, and Flowers

1 FOR AN ACT ENTITLED, An Act to provide for the charging of a fee for the redemption of
2 a tax sale.

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

4 Section 1. That § 10-24-17 be amended to read as follows:

5 10-24-17. Immediately after redemption from any tax sale, the county treasurer shall notify
6 the purchaser or present holder of the redeemed tax certificate of such redemption. The notice
7 shall be sent by mail to the ~~purchaser or present holder to his~~ address as shown by the record of
8 the certificate or assignment ~~thereof, or if of the purchaser or present holder.~~ If there is no such
9 address, the notice shall be sent to the last known address of the purchaser or present holder. The
10 notice shall give the description of the property and amount of redemption. The county treasurer
11 shall ~~deduct from the redemption money the sum of five dollars~~ charge a fee in accordance with
12 § 10-23-8 for each notice ~~which.~~ The fee shall be deposited in the county general fund. If the
13 certificate has been assigned and assignment recorded, the notice shall be sent to the assignee
14 only.

1 **BILL HISTORY**

2 1/18/00 First read in House and referred to Local Government. H.J. 119

3 2/1/00 Scheduled for Committee hearing on this date.

4 2/1/00 Local Government Do Pass, Passed, AYES 13, NAYS 0. H.J. 336

5 2/1/00 Local Government Place on Consent Calendar.

6 2/2/00 House of Representatives Do Pass, Passed, AYES 68, NAYS 0. H.J. 368

7 2/2/00 House of Representatives Title Amended Passed. H.J. 368

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

400D0349

SENATE APPROPRIATIONS COMMITTEE

ENGROSSED NO. **SB27** - 2/9/00

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

1 FOR AN ACT ENTITLED, An Act to appropriate funds from the special racing revolving fund
2 and the South Dakota-bred racing fund to the Department of Social Services for domestic
3 and sexual abuse shelter programs.

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

5 Section 1. The Commission on Gaming on or about July 15, 2000, shall transfer one hundred
6 twenty-five thousand dollars from the special racing revolving fund and one hundred twenty-five
7 thousand dollars from the South Dakota-bred racing fund to the Department of Social Services
8 to provide grants to qualifying contractors according to the provisions of §§ 25-10-26 to 25-10-
9 33, inclusive.

10 Section 2. There is hereby appropriated the sum of two hundred fifty thousand dollars
11 (\$250,000), of other fund expenditure authority, or so much thereof as may be necessary, to the
12 Department of Social Services for the expenditure of funds provided in section 1 of this Act.

13 Section 3. The secretary of social services shall approve vouchers and the state auditor shall
14 draw warrants to pay expenditures authorized by this Act.

1 **BILL HISTORY**

2 1/11/00 First read in Senate and referred to Appropriations. S.J. 18

3 2/2/00 Scheduled for Committee hearing on this date.

4 2/2/00 Deferred by Chair.

5 2/8/00 Scheduled for Committee hearing on this date.

6 2/8/00 Appropriations Do Pass Amended, Passed, AYES 9, NAYS 1. S.J. 347

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

400D0367

SENATE COMMERCE COMMITTEE

ENGROSSED NO. **SB31** - 2/9/00

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

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

1 FOR AN ACT ENTITLED, An Act to require the use of safety belts by passenger vehicle
2 occupants under eighteen years of age and to revise certain provisions regarding enforcement
3 of the seat belt requirement.

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

5 Section 1. That § 32-38-1 be amended to read as follows:

6 32-38-1. Except as provided in chapter 32-37 and § 32-38-3, ~~every operator and front seat~~
7 ~~passenger~~ any adult who is in the front seat and any person under the age of eighteen who is in
8 the front or any back seat of a passenger vehicle operated on a public highway in this state shall
9 wear a properly adjusted and fastened safety seat belt system, required to be installed in the
10 passenger vehicle when manufactured pursuant to Federal Motor Vehicle Safety Standard
11 Number 208 (49 C.F.R. 571.208) in effect January 1, 1989, at all times when the vehicle is in
12 forward motion. The driver of the passenger vehicle shall secure or cause to be secured a
13 properly adjusted and fastened safety seat belt system on any passenger in the ~~front seat~~ vehicle
14 who is at least five years of age but younger than eighteen years of age. Any violation of this
15 section is a petty offense. Any violation of this section is not a moving traffic offense under the

1 provisions of § 32-12-49.1.

2 Section 2. That § 32-38-5 be repealed.

3 ~~—32-38-5. Enforcement of this chapter by state or local law enforcement agencies shall be~~

4 ~~accomplished as a secondary action. A violation of this chapter is a petty offense.~~

1 **BILL HISTORY**

2 1/11/00 First read in Senate and referred to Commerce. S.J. 19

3 1/13/00 Scheduled for Committee hearing on this date.

4 1/13/00 Deferred by Chair.

5 1/20/00 Scheduled for Committee hearing on this date.

6 1/20/00 Deferred by Chair.

7 1/27/00 Deferred by Chair.

8 1/27/00 Scheduled for Committee hearing on this date.

9 2/5/00 Scheduled for Committee hearing on this date.

10 2/8/00 Commerce Hog Housed.

11 2/8/00 Scheduled for Committee hearing on this date.

12 2/8/00 Commerce Do Pass Amended, Passed, AYES 4, NAYS 3. S.J. 357

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

400D0296

SENATE APPROPRIATIONS COMMITTEE

ENGROSSED NO. **SB41** - 2/9/00

Introduced by: The Committee on Appropriations at the request of the Department of
Environment and Natural Resources

1 FOR AN ACT ENTITLED, An Act to authorize expenditures out of the water and environment
2 fund, to amend the state water plan, and to declare an emergency.

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

4 Section 1. There is hereby appropriated from the South Dakota water and environment fund
5 established pursuant to § 46A-1-60, the sum of four million five hundred thousand dollars
6 (\$4,500,000), or so much thereof as may be necessary, to the South Dakota Conservancy
7 District for the purpose of providing grants and loans to project sponsors under the consolidated
8 water facilities construction program established pursuant to § 46A-1-63.1. Funds shall be
9 provided according to terms and conditions established by the Board of Water and Natural
10 Resources.

11 Section 2. In accordance with § 46A-1-64, the Legislature hereby authorizes the Board of
12 Water and Natural Resources to provide grant funding from the South Dakota water and
13 environment fund, under the consolidated water facilities construction program established in
14 § 46A-1-63.1, in amounts not to exceed one million seven hundred fifty thousand dollars
15 (\$1,750,000) to the Randall Community Water District, for the expansion of water services, to
16 include the delivery of bulk water to Aurora-Brule Rural Water System, Inc. and Davison Rural

1 Water System, Inc. Funds shall be provided according to the terms and conditions established
2 by the Board of Water and Natural Resources.

3 Section 3. There is hereby appropriated from the South Dakota water and environment fund
4 established pursuant to § 46A-1-60, the sum of two hundred thousand dollars (\$200,000), or so
5 much thereof as may be necessary, to the South Dakota Conservancy District for the purpose
6 of providing a grant to local project sponsors for the congressional authorization, engineering
7 design, preconstruction activities, and construction of the Lewis and Clark rural water system
8 as authorized in § 46A-1-13.10. Funds shall be provided according to terms and conditions
9 established by the Board of Water and Natural Resources.

10 Section 4. There is hereby appropriated from the South Dakota water and environment fund
11 established pursuant to § 46A-1-60, the sum of two million dollars (\$2,000,000), or so much
12 thereof as may be necessary, to the South Dakota Conservancy District for the purpose of
13 providing a loan to the project sponsors to be used for the engineering design, preconstruction
14 activities, and construction of the facilities included in the Mni Wiconi rural water system as
15 authorized in § 46A-1-13.4. Funds shall be used by the project sponsors for activities that qualify
16 as nonfederal matching requirements as enumerated in P.L. 100-516 as amended to January 1,
17 1999. Funds shall be provided according to terms and conditions established by the Board of
18 Water and Natural Resources.

19 Section 5. There is hereby appropriated from the South Dakota water and environment fund
20 established pursuant to § 46A-1-60, the sum of three hundred thousand dollars (\$300,000), or
21 so much thereof as may be necessary, to the South Dakota Conservancy District for the purpose
22 of providing a grant to local project sponsors for the engineering design, right-of-way
23 acquisition, preconstruction activities, and construction of the Sioux Falls flood control project
24 as authorized in § 46A-1-13.7. Funds shall be provided according to terms and conditions
25 established by the Board of Water and Natural Resources.

1 Section 6. That § 46A-1-2.1 be amended to read as follows:

2 46A-1-2.1. The Legislature finds that the following water resources projects are necessary
3 for the general welfare of the people of the State of South Dakota and authorizes the projects
4 pursuant to § 46A-1-2 to be included in the state water resources management system to serve
5 as the preferred, priority objectives of the state: Bad River watershed project, ~~Belle Fourche~~
6 ~~irrigation project~~, Big Sioux flood control study, Black Hills hydrology and water management
7 study, Brennan reservoir, Cendak irrigation project, ~~Fall River county rural water system~~,
8 Gregory county pumped storage site, James River improvement program, Lake
9 Andes-Wagner/Marty II irrigation unit, Lewis and Clark rural water system, ~~Mid-Dakota rural~~
10 ~~water system~~, Mni Wiconi rural water system, ~~Perkins county rural water system~~, Pick-Sloan
11 riverside irrigation, Sioux Falls flood control project, Slip-Up Creek, and Vermillion basin flood
12 control project.

13 Section 7. Notwithstanding § 34A-6-85, there is hereby appropriated from the South Dakota
14 water and environment fund established pursuant to § 46A-1-60, from the fees received pursuant
15 to §§ 34A-6-81 to 34A-6-84, inclusive, a grant in the sum of one million five hundred thousand
16 dollars (\$1,500,000), or so much thereof that may be necessary, to the South Dakota
17 Department of Environment and Natural Resources to be used for the statewide cleanup of waste
18 tires and solid waste. Notwithstanding § 46A-1-61, the department may fund up to one hundred
19 percent of the nonfederal share of a statewide waste tire and solid waste cleanup project.

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

1 **BILL HISTORY**

2 1/11/00 First read in Senate and referred to Appropriations. S.J. 21

3 2/1/00 Scheduled for Committee hearing on this date.

4 2/1/00 Deferred by Chair.

5 2/8/00 Scheduled for Committee hearing on this date.

6 2/8/00 Appropriations Do Pass Amended, Passed, AYES 10, NAYS 0. S.J. 348

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

942D0424

SENATE TAXATION COMMITTEE

ENGROSSED NO. **SB80** - 2/7/00

Introduced by: Senators Staggers, Albers, Dennert, Drake, and Lange and Representatives Klautt, Cerny, Garnos, Koehn, Kooistra, Patterson, Volesky, and Weber

1 FOR AN ACT ENTITLED, An Act to provide a tax refund for agricultural production facilities
2 and to revise the eligibility requirements.

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

4 Section 1. That § 10-45B-1 be amended to read as follows:

5 10-45B-1. Terms used in this chapter mean:

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

7 (2) "New agricultural processing facility," a new building or structure, the construction
8 of which is subject to contractors' excise tax pursuant to chapter 10-46A or 10-46B.

9 A new agricultural processing facility is any new building or structure constructed for
10 the initial or subsequent processing of any form of agricultural commodity, product,
11 or by-product. A new agricultural processing facility does not include ~~any building or~~
12 ~~structure constructed for raising or feeding of livestock~~ or the expansion of an
13 existing agricultural processing facility;

14 (3) "New agricultural production facility," a new building or structure, the construction
15 of which is subject to contractors' excise tax pursuant to chapter 10-46A or 10-46B.

16 A new agricultural production facility is any new building or structure constructed for

1 raising or feeding livestock. A new agricultural production facility does not include
2 the expansion of an existing facility;

3 (4) "Person," any individual, firm, copartnership, joint venture, association, limited
4 liability company, corporation, estate, trust, business trust, receiver, or any group or
5 combination acting as a unit;

6 (4)(5) "Project," the construction of a new agricultural processing facility at a single site;

7 (5)(6) "Project cost," the amount paid in money, credits, property, or other money's worth
8 for a project;

9 (6)(7) "Secretary," the secretary of the Department of Revenue.

10 Section 2. That § 10-45B-2 be amended to read as follows:

11 10-45B-2. Any person may apply for and obtain a refund or credit for contractors' excise
12 taxes imposed and paid under the provisions of chapter 10-46A for the construction of a new
13 agricultural processing facility or agricultural production facility and for sales or use taxes
14 imposed and paid by such person under the provisions of chapters 10-45 and 10-46 for the
15 purchase or use of agricultural processing equipment or agricultural production equipment.

16 Section 3. That § 10-45B-4 be amended to read as follows:

17 10-45B-4. The refund pertains only to project costs incurred and paid after April 1, 1997,
18 and within thirty-six months of the approval of the application required by § 10-45B-6. No
19 refund may be made unless:

20 (1) The project cost exceeds the sum of ~~four million five hundred thousand~~ one million
21 dollars; and

22 (2) The person applying for the refund obtains a permit from the secretary as set forth in
23 § 10-45B-6.

24 Section 4. That § 10-45B-5 be amended to read as follows:

25 10-45B-5. If the project cost exceeds ~~four million five hundred thousand~~ one million dollars,

- 1 the refund shall be one hundred percent of the taxes attributed to the first one million dollars in
- 2 project cost.

1 **BILL HISTORY**

2 1/18/00 First read in Senate and referred to Taxation. S.J. 71

3 1/26/00 Scheduled for Committee hearing on this date.

4 1/28/00 Scheduled for Committee hearing on this date.

5 1/28/00 Taxation Deferred to another day.

6 2/4/00 Scheduled for Committee hearing on this date.

7 2/4/00 Taxation Do Pass Amended, Passed, AYES 5, NAYS 3. S.J. 316

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

184D0151

SENATE STATE AFFAIRS COMMITTEE

ENGROSSED NO. **SB85** - 2/9/00

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

Introduced by: Senators Brown (Arnold), Albers, Brosz, Daugaard, Drake, Dunn (Rebecca), Duxbury, Flowers, Halverson, Ham, Kloucek, Lange, Lawler, Olson, Reedy, Shoener, and Symens and Representatives Fiegen, Brown (Jarvis), Brown (Richard), Crisp, Diedrich (Larry), Engbrecht, Fischer-Clemens, Fitzgerald, Klaudt, Kooistra, McCoy, Napoli, Pummel, Smidt, and Wetz

1 FOR AN ACT ENTITLED, An Act to revise certain powers of the South Dakota Building
2 Authority, to provide for the establishment of a corporation by the authority, to provide for
3 the transfer and sale of all future right, title, and interest of certain amounts payable to the
4 state by various tobacco companies under a master settlement agreement, and to declare an
5 emergency.

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

7 Section 1. Terms used in this Act mean:

- 8 (1) "Authority," the South Dakota Building Authority, a body corporate and politic,
9 organized and existing under chapter 5-12;
- 10 (2) "Bonds," bonds, bond anticipation notes, notes, certificates of ownership or
11 indebtedness, or other obligations issued, incurred, or otherwise created pursuant to
12 this Act and payable directly or indirectly out of or representing an interest in tobacco
13 settlement revenues or other rights under or with respect to the master settlement
14 agreement;

- 1 (3) "Corporation," the special purpose body corporate and politic established by the
2 authority by resolution as provided in section 3 of this Act;
- 3 (4) "Master settlement agreement," the master settlement agreement entered into on
4 November 23, 1998, by attorneys general from the several states, including the State
5 of South Dakota, and various tobacco companies, as amended on January 1, 2000;
- 6 (5) "Master settlement escrow agent," the escrow agent under the master settlement
7 agreement;
- 8 (6) "Net proceeds of bonds," the proceeds of bonds issued by the corporation under this
9 Act less any amounts applied or to be applied to pay transaction and administrative
10 expenses and to fund any reserves deemed necessary or appropriate by the
11 corporation;
- 12 (7) "Net proceeds of sale of tobacco settlement revenues," the funds and other
13 consideration received by the State of South Dakota from any sale, conveyance, or
14 other transfer pursuant to section 2 of this Act less any amounts applied or to be
15 applied to pay transaction and administrative expenses and to fund any reserves;
- 16 (8) "Permitted investments," any investment authorized by §§ 4-5-23 and 4-5-26 and
17 noncollateralized direct obligations of any bank or savings institution, insurance
18 company, or bank or insurance holding company if such institution or holding
19 company is rated in the highest two quality categories by a nationally recognized
20 rating agency;
- 21 (9) "Tobacco settlement revenues," any amount now or hereafter payable to the State of
22 South Dakota under or in connection with the Master Settlement Agreement;
- 23 (10) "Tobacco settlement trust fund," the State of South Dakota tobacco settlement trust
24 fund created pursuant to section 21 of this Act;
- 25 (11) "Tobacco settlement interest fund," the fund created by section 22 of this Act.

1 Section 2. All or any portion of the right, title, and interest of the State of South Dakota in,
2 to and under the master settlement agreement, to receive or collect tobacco settlement revenues,
3 may be sold, conveyed, or otherwise transferred by the state to the authority or to a corporation
4 established by the authority pursuant to this Act so long as the net proceeds of sale of tobacco
5 settlement revenues are:

- 6 (1) Deposited to the tobacco settlement trust fund;
- 7 (2) Deposited with or for the benefit of the authority for the purpose of paying all or any
8 part of the cost of one or a combination of projects permitted under chapter 5-12; or
- 9 (3) Paid to or for the benefit of the tobacco settlement trust and its assets.

10 No project may be undertaken by the authority with funds deposited pursuant to subdivision
11 (2) of this section unless the project has been approved by the Legislature. If any proceeds of the
12 sale are deposited with or for the benefit of the South Dakota Building Authority, then the South
13 Dakota Building Authority shall submit a written report to the Legislature advising the
14 Legislature of the deposit. Any sale, conveyance, or other transfer of tobacco settlement
15 revenues shall be evidenced by an instrument or agreement in writing signed on behalf of the
16 state by the Governor. The Governor shall file a certified copy of any instrument or agreement,
17 together with a report indicating the application of the net proceeds of the sale of tobacco
18 settlement proceeds with the Legislature. Each instrument or agreement may include an
19 irrevocable direction to the master settlement escrow agent to pay all or a specified portion of
20 amounts due to the State of South Dakota under or in connection with the master settlement
21 agreement, including, without limitation, the tobacco settlement revenues, as have been sold,
22 conveyed, or otherwise transferred directly to or upon the order of the authority or corporation
23 or any trustee under an indenture or other agreement securing any bonds of the corporation or
24 the authority issued, incurred, or created for the purpose of raising funds to pay the purchase
25 price to the state. Upon the filing, the sale, conveyance, or other transfer is a true sale and

1 absolute conveyance of all right, title, and interest therein described in accordance with the terms
2 thereof, valid, binding, and enforceable in accordance with the terms thereof and the instrument
3 or agreements and any related instrument, agreement, or other arrangement, including any
4 pledge, grant of security interest, or other encumbrance made by the corporation or the authority
5 to secure any bonds issued, incurred, or created by the corporation or the authority, are not
6 subject to disavowal, disaffirmance, cancellation, or avoidance by reason of insolvency of any
7 party, lack of consideration or any other fact, occurrence, or rule of law.

8 Section 3. That chapter 5-12 be amended by adding thereto a NEW SECTION to read as
9 follows:

10 The authority shall establish by resolution a special purpose corporation which shall be body
11 corporate and politic and instrumentality of, but separate and apart from, the State of South
12 Dakota and the authority. The corporation shall be established for the express limited public
13 purposes set forth in this Act and no part of the net earnings of the corporation may inure to any
14 private individual.

15 Section 4. That chapter 5-12 be amended by adding thereto a NEW SECTION to read as
16 follows:

17 The corporation shall be governed by a board of directors consisting of the members of the
18 authority and two additional directors appointed by the Governor, which directors shall be
19 independent from the state. The resolution establishing the corporation shall serve as the charter
20 of the corporation and may be amended from time to time by the authority, but the resolution
21 shall provide that the power and the authority of the corporation is subject to the terms,
22 conditions, and limitations of this Act and any applicable covenants or agreements of the
23 corporation in any indenture or other agreement relating to any then outstanding bonds. The
24 corporation may enter into contracts regarding any matter connected with any corporate purpose
25 within the objects and purposes of this Act.

1 Section 5. That chapter 5-12 be amended by adding thereto a NEW SECTION to read as
2 follows:

3 The authority and corporation may delegate by resolution to one or more officers or
4 employees of the authority or corporation any powers and duties as it may deem proper.

5 Section 6. That chapter 5-12 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 The corporation may pledge as security for any bonds the rights under the master settlement
8 agreement held by the corporation, including the rights to receive or collect tobacco settlement
9 revenues, the proceeds thereof, or moneys or other funds deposited with or held by the
10 corporation. Any pledge made by the corporation is valid and binding from the time the pledge
11 is made. The property, revenues, moneys, and other funds so pledged and thereafter held or
12 received by the corporation shall immediately be subject to the lien of such pledge without any
13 physical delivery thereof or further act and subject only to the provisions of prior agreements.
14 The lien of such pledge shall be valid and binding as against all parties having claims of any kind
15 in tort, contract, or otherwise against the corporation irrespective of whether the parties have
16 notice thereof. No ordinance, resolution, trust agreement, or other instrument by which the
17 pledge is created need be filed or recorded except in the records of the corporation.

18 Section 7. That chapter 5-12 be amended by adding thereto a NEW SECTION to read as
19 follows:

20 In connection with the issuance of bonds, the corporation may enter into arrangements to
21 provide additional security and liquidity for the bonds. The arrangements may include, without
22 limitation, bond insurance, letters of credit, and lines of credit by which the corporation may
23 borrow funds to pay or redeem its bonds and purchase or remarketing arrangements for assuring
24 the ability of owners of the bonds to sell or have redeemed their bonds. The corporation may
25 enter into contracts and may agree to pay fees to persons providing the arrangements, including

1 from bond proceeds.

2 Section 8. That chapter 5-12 be amended by adding thereto a NEW SECTION to read as
3 follows:

4 The resolution authorizing the issuance of its bonds or the indenture or other agreement
5 approved by the resolution may provide that interest rates may vary from time to time depending
6 upon criteria established by the corporation, which may include, without limitation, a variation
7 in interest rates as may be necessary to cause the bonds to be remarketable from time to time at
8 a price equal to their principal amount, and may provide for appointment of a national banking
9 association, bank, trust company, investment banker, or other financial institution to serve as a
10 remarketing agent in that connection. The indenture or other agreement with respect to the
11 bonds may provide that alternative interest rates or provisions do apply during such times as the
12 bonds are held by a person providing a letter of credit or other credit enhancement arrangement
13 for the bonds.

14 Section 9. That chapter 5-12 be amended by adding thereto a NEW SECTION to read as
15 follows:

16 In connection with the bonds under this Act, the corporation may enter into contracts that
17 it determines necessary or appropriate to permit it to manage payment or interest rate risk. These
18 contracts may include interest rate exchange agreements, contracts providing for payment or
19 receipt of funds based on levels of or changes in interest rates, contracts to exchange cash flows
20 or series of payments, and contracts incorporating interest rate caps, collars, floors, or locks.

21 Section 10. That chapter 5-12 be amended by adding thereto a NEW SECTION to read as
22 follows:

23 The corporation may not file a voluntary petition under or be or become a debtor or bankrupt
24 under the federal bankruptcy code or any other federal or state bankruptcy, insolvency, or
25 moratorium law or statute. Nor may any public officer, organization, entity or other person

1 authorize the corporation to be or become a debtor or bankrupt under the federal bankruptcy
2 code or any other federal or state bankruptcy, insolvency, or moratorium law or statute.

3 Section 11. That chapter 5-12 be amended by adding thereto a NEW SECTION to read as
4 follows:

5 The corporation may not guarantee the debts of another. No indebtedness, bonds or
6 obligation, issued, incurred, or created by the State of South Dakota or any state agency or
7 instrumentality may be or become a lien, charge, or liability against the corporation or the
8 property or funds of the corporation except for debts incurred directly by the corporation.

9 Section 12. That chapter 5-12 be amended by adding thereto a NEW SECTION to read
10 as follows:

11 The purposes of the corporation established by the authority pursuant to this Act are to:

- 12 (1) Purchase, acquire, own, pledge, encumber, or otherwise transfer all right, title, and
13 interest of the state in, to, and under the master settlement agreement, including all
14 right, title, and interest to receive or collect tobacco settlement revenues;
- 15 (2) Raise funds through the issuance of bonds or other obligations or evidences of
16 indebtedness or ownership or through the sale, transfer, pledge, encumbrance,
17 securitization, factoring, or other conveyance of the rights described above in
18 subdivision (1) of this section for the purposes described in this Act;
- 19 (3) Serve the Legislature by making reports concerning the foregoing;
- 20 (4) Sue and be sued and to prosecute and defend, at law or in equity, in any court having
21 jurisdiction of the subject matter and of the parties;
- 22 (5) Have and to use a corporate seal and to alter the same at pleasure;
- 23 (6) Maintain an office at any place the authority by resolution may designate; and
- 24 (7) Do all things necessary and convenient to carry out the purposes of this Act.

25 Section 13. That chapter 5-12 be amended by adding thereto a NEW SECTION to read as

1 follows:

2 The corporation is vested with the same power and authority and is subject to the same
3 limitations and conditions, as are applicable to the authority pursuant to §§ 5-12-1.1, 5-12-4, 5-
4 12-5, 5-12-8.1, 5-12-22, 5-12-24, 5-12-26, 5-12-27, 5-12-27.1, 5-12-27.2, 5-12-27.3, 5-12-
5 27.4, 5-12-27.6, 5-12-28, 5-12-38, 5-12-38.1, and 5-12-40, except such power and authority
6 shall be exercised with respect to and shall be limited to the purposes of the corporation set forth
7 in section 12 of this Act. The corporation may not engage in any unrelated activities.

8 Section 14. That chapter 5-12 be amended by adding thereto a NEW SECTION to read as
9 follows:

10 No bond of the corporation issued, incurred, or created under this Act may be or become a
11 lien, charge, or liability against the State of South Dakota or the authority, nor against the
12 property or funds of the State of South Dakota or the authority within the meaning of the
13 Constitution or statutes of South Dakota.

14 Section 15. That chapter 5-12 be amended by adding thereto a NEW SECTION to read as
15 follows:

16 The State of South Dakota pledges to and agrees with the holders of the bonds, notes,
17 certificates, or other obligations issued, incurred, or created by the corporation under this Act
18 that the state will not limit or alter the rights and powers vested in the corporation by this Act
19 so as to impair the terms of any contract made by the corporation with those holders or in any
20 way impair the rights and remedies of those holders until the bonds, notes, certificates, or other
21 obligations, together with interest thereon, interest on any unpaid installments of interest, and
22 all costs and expenses in connection with any action or proceedings by or on behalf of those
23 holders are fully met and discharged. In addition, the state pledges to and agrees with the holders
24 of the bonds, notes, certificates, or other obligations issued, incurred, or created by the
25 corporation under this Act that the state will not limit or alter the basis on which tobacco

1 settlement revenues are to be paid to the corporation or the authority so as to impair the terms
2 of any such contract. The corporation is authorized to include these pledges and agreements of
3 the state in any contract with the holders of bonds, notes, certificates, or other obligations issued,
4 incurred, or created by the corporation under this Act.

5 Section 16. That chapter 5-12 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 Neither the State of South Dakota nor the authority is liable on bonds, notes, certificates, or
8 other obligations issued, incurred, or created by the corporation under this Act. Such bonds,
9 notes, certificates, or other obligations are not a debt of the state or the authority, and this Act
10 may not be construed as a guarantee by the state or the authority of the debts of the corporation.
11 The bonds, notes, certificates, or other securities shall contain a statement to this effect on the
12 face of the bonds, notes, certificates, or other obligations.

13 Section 17. That chapter 5-12 be amended by adding thereto a NEW SECTION to read as
14 follows:

15 The authority is not liable for any bond, note, certificate, or other obligation issued, incurred,
16 or created by the corporation under this Act or for any act or failure to act of the corporation
17 and the corporation is not liable for any obligation of the authority or for any act or failure to act
18 by the authority.

19 Section 18. That chapter 5-12 be amended by adding thereto a NEW SECTION to read as
20 follows:

21 The corporation is hereby declared to be performing a public function on behalf of the state
22 and to be a public instrumentality of the state. Accordingly, the income of the authority, and all
23 properties at any time owned by the authority, are exempt from all taxation in the State of South
24 Dakota.

25 Section 19. That chapter 5-12 be amended by adding thereto a NEW SECTION to read as

1 follows:

2 For purposes of chapter 47-31A, any bonds, notes, certificates, or other obligations issued,
3 incurred, or created by the corporation under this Act are deemed to be securities issued by a
4 public instrumentality of the State of South Dakota.

5 Section 20. That chapter 5-12 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 The corporation may employ attorneys, accountants, tobacco industry consultants and
8 financial experts, managers, and such other employees and agents as may be necessary and fix
9 their compensation.

10 Section 21. The tobacco settlement trust fund is hereby established in the state treasury. The
11 net proceeds of sale of tobacco revenues less any amounts deposited with or for the benefit of
12 the authority pursuant to the provisions of section 2 of this Act, shall be deposited in the
13 tobacco settlement trust fund. In addition, any residual interest in or to tobacco settlement
14 revenues or other rights under the master settlement agreement, to the extent not required to
15 make payments with respect to any bonds of the corporation, are payable to or for the benefit
16 of the tobacco settlement trust fund. The principal of the tobacco settlement trust fund may not
17 be expended except for costs and expenses incurred in investing or otherwise administering the
18 tobacco settlement trust and its assets. The amounts in the tobacco settlement trust fund shall
19 be invested pursuant to §§ 4-5-23 and 4-5-26. An amount equal to the interest or other
20 investment income earned on money in the trust fund each fiscal year shall be transferred to the
21 tobacco settlement interest fund created in section 22 of this Act.

22 Section 22. The tobacco settlement interest fund is established in the state treasury. The
23 money in the tobacco settlement interest fund shall remain in the fund until appropriated by the
24 Legislature. The amounts in the tobacco settlement interest fund shall be invested pursuant to
25 §§ 4-5-23 and 4-5-26.

1 Section 23. Whereas, this Act is necessary for the support of the state government and its
2 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full
3 force and effect from and after its passage and approval.

1 **BILL HISTORY**

2 1/18/00 First read in Senate and referred to Education. S.J. 71

3 1/25/00 Scheduled for Committee hearing on this date.

4 1/25/00 Education Do Pass, Passed, AYES 7, NAYS 0. S.J. 181

5 1/26/00 Referred to State Affairs, AYES 22, NAYS 12. S.J. 208

6 2/6/00 Scheduled for Committee hearing on this date.

7 2/7/00 Scheduled for Committee hearing on this date.

8 2/7/00 Deferred by Chair.

9 2/9/00 Scheduled for Committee hearing on this date.

10 2/9/00 State Affairs Do Pass Amended, Passed, AYES 8, NAYS 0.

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

826D0617

SENATE JUDICIARY COMMITTEE

ENGROSSED NO. **SB100** - 2/8/00

Introduced by: Senators Dunn (Rebecca), Dennert, Flowers, Hutmacher, Kloucek, Lange, Lawler, Olson, Reedy, and Symens and Representatives Haley, Davis, Fischer-Clemens, Kazmerzak, Koetzle, Lockner, Lucas, Patterson, Sutton (Daniel), and Waltman

1 FOR AN ACT ENTITLED, An Act to provide that certain minors in the custody of the
2 Department of Corrections be segregated from others.

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

4 Section 1. That chapter 26-8B be amended by adding thereto a NEW SECTION to read as
5 follows:

6 While in the physical custody of the Department of Corrections, no child in need of
7 supervision, as defined in § 26-8B-2, may be placed in any facility, program, locality, or
8 environment which causes or is likely to cause the child in need of supervision to be in either
9 direct physical contact or prolonged physical proximity to any delinquent child, as defined in
10 § 26-8C-2. The provisions of this Act do not prohibit the Department of Corrections from
11 placing children in need of supervision in any facility or from requiring children in need of
12 supervision to participate in any program, if the placement or participation can be facilitated
13 without any contact with delinquent children. The provisions of this Act do not apply to children
14 in need of supervision while in any mental health program, chemical dependency treatment
15 program, or private sector placement.

1 Section 2. That chapter 26-8B be amended by adding thereto a NEW SECTION to read as
2 follows:

3 The term, direct physical contact or prolonged physical proximity, as used in this Act, does
4 not refer to accidental contact, minimal incidental contact, or visual contact from a distance
5 sufficient to preclude any likelihood of direct physical contact.

1 **BILL HISTORY**

2 1/18/00 First read in Senate and referred to Judiciary. S.J. 75

3 1/21/00 Scheduled for Committee hearing on this date.

4 1/21/00 Deferred by Chair.

5 1/28/00 Scheduled for Committee hearing on this date.

6 2/2/00 Scheduled for Committee hearing on this date.

7 2/2/00 Deferred by Chair.

8 2/4/00 Scheduled for Committee hearing on this date.

9 2/4/00 Judiciary Do Pass Amended, Passed, AYES 4, NAYS 3. S.J. 327

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

777D0363

SENATE STATE AFFAIRS COMMITTEE

ENGROSSED NO. **SB141** - 2/9/00

Introduced by: Senators Whiting, Albers, Brosz, Brown (Arnold), Daugaard, Duxbury,
Flowers, Lawler, and Madden and Representatives Michels, Fischer-Clemens,
Haley, Hunt, Lucas, Smidt, and Wilson

1 FOR AN ACT ENTITLED, An Act to establish the South Dakota Corrections Committee and
2 a monitor within the juvenile corrections system.

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

4 Section 1. That chapter 26-11A be amended by adding thereto a NEW SECTION to read
5 as follows:

6 Terms used in this chapter mean:

7 (1) "Abuse," any act or failure to act by an employee of a juvenile corrections facility or
8 by a contract person or entity providing services to a juvenile corrections facility,
9 which act was performed or was failed to be performed, knowingly, recklessly, or
10 intentionally, and which caused, or may have caused, injury or death to an individual
11 in the custody or care of a juvenile corrections facility;

12 (2) "Monitor," the person or entity designated by the Governor to protect the legal rights
13 of individuals in the custody or care of juvenile corrections facilities;

14 (3) "Juvenile corrections facility," all juvenile correctional facilities established and
15 maintained in accordance with § 26-11A-1;

- 1 (4) "Individual in the custody or care of a juvenile corrections facility," an individual who:
- 2 (a) Is in the process of being admitted to a juvenile corrections facility, including
- 3 an individual who is being transported to such a facility; or
- 4 (b) Is involuntarily confined in a juvenile corrections facility;
- 5 (5) "Neglect," a negligent act or omission by any individual responsible for providing
- 6 custody, care, or services in a juvenile corrections facility which caused or may have
- 7 caused injury or death to an individual in the care or custody of a juvenile corrections
- 8 facility or which placed such individual at undue risk of injury or death;
- 9 (6) "Records," reports prepared or received by any staff of a juvenile corrections facility,
- 10 or reports prepared by an entity or staff person charged with investigating reports of
- 11 incidents of abuse or neglect, injury or death occurring at such facility that describes
- 12 incidents of abuse, neglect, injury, or death occurring at such facility and the steps
- 13 taken to investigate such incident.

14 Section 2. The Governor shall designate a person or entity to serve as the monitor and whose

15 primary responsibility is to protect the rights of individuals in the custody or care of juvenile

16 corrections facilities. Such person or entity shall be independent of the Department of

17 Corrections and shall be administered by the Department of Human Services, office of the

18 secretary.

19 Section 3. Any allegation of abuse and neglect of individuals within the juvenile corrections

20 facilities received by the Office of the Governor, the Department of Corrections, or other

21 agencies of the executive branch shall be promptly reported in writing to the monitor.

22 Section 4. The monitor created in section 2 of this Act may:

- 23 (1) Investigate incidents of abuse or neglect of such individuals within the juvenile
- 24 corrections facilities, if the incidents are reported to the monitor or if there is probable
- 25 cause to believe that the incidents occurred;

- 1 (2) Access any individual in the custody or care of juvenile corrections facilities and any
2 employee in the employ of the State of South Dakota or any of its political
3 subdivisions;
- 4 (3) Access any records of or relating to any individual in the custody or care of juvenile
5 facilities;
- 6 (4) Provide an annual report to the Governor, the Legislature, the Corrections
7 Commission established by § 1-15-1.13, the secretary of the Department of Human
8 Services, and the secretary of the Department of Corrections. The report shall contain
9 the activities of the monitor for the fiscal year immediately prior to the report.
10 Activities shall reflect the number of referrals to the monitor, the number of
11 investigations completed, results of the investigations, corrective actions taken, and
12 a summary of other activities performed by the monitor;
- 13 (5) Provide training and assistance to employees of the Department of Corrections in
14 areas within the scope of the monitor's position.
- 15 (6) Review Department of Corrections' policies dealing with juvenile's rights to ensure
16 compliance with federal and state laws, rules, and policy.

17 Section 5. It shall be the responsibility of the monitor to report immediately, in writing, any
18 findings of abuse or neglect in a juvenile corrections facility to the secretary of the Department
19 of Corrections and the Governor and to state in the report the facts found by the monitor and
20 the names of any individuals who perpetrated the abuse or neglect.

21 Section 6. There is hereby created the South Dakota Corrections Committee to make a
22 continuing study of the operation of the state's correctional system.

23 Section 7. The Corrections Committee shall consist of five members of the House of
24 Representatives to be appointed by the Speaker of the House of Representatives and five
25 members of the Senate to be appointed by the President Pro Tempore. The members of the

1 corrections committee shall be appointed biennially for terms expiring on January first of each
2 succeeding odd-numbered year and shall serve until their respective successors are appointed and
3 qualified. No more than three from each legislative body may be from the same political party.

4 Section 8. The Corrections Committee shall select a chair and vice chair and shall be
5 provided with staff assistance from the Legislative Research Council.

6 Section 9. The Corrections Committee shall review and act upon all proposed legislation
7 regarding the establishment and operation of the state's corrections system.

8 Section 10. The Department of Corrections or such other executive branch agency as the
9 Governor may direct shall, on or before December 1, 2000, submit to the Corrections Committee
10 of the Legislature a report and recommendation regarding the desirability and feasibility of the
11 Department of Corrections seeking accreditation of all juvenile corrections facilities under the
12 direction of the Governor.

1 **BILL HISTORY**

2 1/19/00 First read in Senate and referred to Judiciary. S.J. 119

3 1/20/00 Senate Referred to State Affairs. S.J. 131

4 2/6/00 Scheduled for Committee hearing on this date.

5 2/7/00 Scheduled for Committee hearing on this date.

6 2/7/00 Deferred by Chair.

7 2/9/00 Scheduled for Committee hearing on this date.

8 2/9/00 State Affairs Do Pass Amended, Passed, AYES 9, NAYS 0.

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

750D0775

SENATE EDUCATION COMMITTEE

ENGROSSED NO. **SB181** - 2/9/00

Introduced by: Senators Kloucek, Drake, Lange, and Vitter and Representatives Cerny, Chicoine, Crisp, Frysliie, Hanson, Kazmerzak, Kooistra, Nachtigal, Napoli, Patterson, Putnam, Sebert, Sutton (Duane), Waltman, Weber, and Wilson

1 FOR AN ACT ENTITLED, An Act to award high school diplomas to certain veterans of World

2 War II.

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

4 Section 1. Any honorably discharged veteran as defined in § 33-17-1 may request and shall

5 receive an honorary high school diploma as provided in this Act if the veteran served in the

6 armed forces of the United States during the period December 7, 1941 to September 2, 1945,

7 inclusive. The school district selected by the eligible veteran shall award an honorary high school

8 diploma to the veteran.

1 **BILL HISTORY**

2 1/24/00 First read in Senate and referred to Education. S.J. 166

3 1/27/00 Scheduled for Committee hearing on this date.

4 2/3/00 Scheduled for Committee hearing on this date.

5 2/8/00 Scheduled for Committee hearing on this date.

6 2/8/00 Education Do Pass Amended, Passed, AYES 5, NAYS 1. S.J. 349

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

922D0765

SENATE STATE AFFAIRS COMMITTEE

ENGROSSED NO. **SB184** - 2/7/00

Introduced by: Senators Hainje, Albers, Brown (Arnold), Daugaard, Duxbury, Everist, Frederick, Halverson, Lange, Munson (David), Paisley, Reedy, and Staggers and Representatives Peterson, Broderick, Brown (Richard), Chicoine, Crisp, Diedrich (Larry), Earley, Fiegen, Fryslie, Heineman, Hunt, Kazmerzak, Richter, Roe, Slaughter, Sutton (Daniel), and Wudel

1 FOR AN ACT ENTITLED, An Act to authorize the construction of an inmate housing unit on
2 the grounds of the state penitentiary complex in Minnehaha County, to make an
3 appropriation therefor, to authorize local governments to contract with the state for the care
4 of local prisoners, and to declare an emergency.

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

6 Section 1. The Department of Corrections may construct, complete, furnish, and equip a
7 secure housing unit on the grounds of the state penitentiary complex in Minnehaha County,
8 including architectural and engineering services, plumbing, water, sewer, heating, ventilation,
9 electric facilities, site preparation, construction of sidewalks and driveways, and landscaping the
10 grounds of the facility.

11 Section 2. The Department of Corrections may expend ten million dollars (\$10,000,000) in
12 federal or other funds, or so much thereof as may be necessary, for the planning, design, and
13 construction of the secure housing unit authorized in section 1 of this Act.

14 Section 3. The Department of Corrections may accept, transfer, and expend any funds

1 obtained for these purposes from federal sources, gifts, contributions, or any other source, all
2 of which shall be deemed appropriated to this construction.

3 Section 4. The design and construction of this unit shall be under the general charge and
4 supervision of the Bureau of Administration as provided in chapter 5-14.

5 Section 5. The funds authorized by this Act shall be paid on warrants drawn by the state
6 auditor on vouchers approved by the Bureau of Administration and Department of Corrections.

7 Section 6. That chapter 24-11 be amended by adding thereto a NEW SECTION to read as
8 follows:

9 Any county or municipality of this state may enter into an agreement with the Department
10 of Corrections for the care and maintenance of accused or convicted persons who would
11 normally be held in a local jail pursuant to § 24-11-1. Such persons may be housed by the
12 Department of Corrections inside Department of Corrections housing units subject to provisions
13 of the agreement as provided for in this section and section 7 of this Act.

14 Section 7. That chapter 1-15 be amended by adding thereto a NEW SECTION to read as
15 follows:

16 The Department of Corrections may enter into an agreement with any county or municipality
17 of this state to provide for the care and maintenance of accused or convicted persons who would
18 normally be held in a local jail pursuant to § 24-11-1.

19 Section 8. If no agreement as provided for in sections 6 and 7 of this Act is mutually agreed
20 upon in writing by the Department of Corrections and a county or municipality, the authorization
21 provided for in sections 1 and 2 of this Act is null and void.

22 Section 9. Notwithstanding any other provision of law, and unless otherwise specified by
23 agreement, a county, municipality, or any of its elected officials that enter into an agreement with
24 the Department of Corrections for the care and maintenance of accused or convicted persons,
25 as set forth in section 6 of this Act, shall have no further responsibility for the care and

1 maintenance of such persons for such time that they are in the exclusive care and control of the
2 department.

3 Section 10. Whereas, this Act is necessary for the support of the state government and its
4 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full
5 force and effect from and after its passage and approval.

1 **BILL HISTORY**

2 1/24/00 First read in Senate and referred to State Affairs. S.J. 167

3 2/2/00 Scheduled for Committee hearing on this date.

4 2/4/00 Scheduled for Committee hearing on this date.

5 2/4/00 State Affairs Do Pass Amended, Passed, AYES 8, NAYS 1. S.J. 315

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

136D0596

SENATE APPROPRIATIONS COMMITTEE

ENGROSSED NO. **SB196** - 2/9/00

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

Introduced by: Senator Frederick

1 FOR AN ACT ENTITLED, An Act to amend the General Appropriations Act for fiscal year

2 2000.

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

4 Section 1. That certain programs in chapter 19 of the 1999 Session Laws be amended to read

5 as follows:

6 DEPARTMENT OF EXECUTIVE MANAGEMENT

7 South Dakota Public Broadcasting

8 Operating Expenses, delete "\$1,479,923" and insert "\$4,479,923".

9 State Radio

10 Operating Expenses, delete "\$576,330" and insert "\$4,576,330".

11 DEPARTMENT OF HUMAN SERVICES

12 Administration, Secretary of Human Services

13 Operating Expenses, delete "\$126,355" and insert "\$1,626,355".

14 Alcohol and Drug Abuse

15 Operating Expenses, delete "\$2,192,606" and insert "\$3,192,606".

16 DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

1 Environmental Services

2 Operating Expenses, delete "\$738,141" and insert "\$2,738,141".

3 Adjust all totals accordingly.

4 Section 2. This Act is effective June 20, 2000.

1 **BILL HISTORY**

2 1/24/00 First read in Senate and referred to Appropriations. S.J. 169

3 2/2/00 Scheduled for Committee hearing on this date.

4 2/2/00 Deferred by Chair.

5 2/8/00 Appropriations Hog Housed.

6 2/8/00 Scheduled for Committee hearing on this date.

7 2/8/00 Appropriations Do Pass Amended, Passed, AYES 9, NAYS 1. S.J. 346

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

329D0754

SENATE COMMERCE COMMITTEE ENGROSSED NO. **SB206** - 2/9/00

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

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding liability for the bank
2 franchise tax.

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

4 Section 1. That § 10-43-4 be amended to read as follows:

5 10-43-4. The liability for the tax imposed by §§ 10-43-2 and 10-43-2.1 shall arise upon the
6 first day of each tax year and shall be based upon the net income assignable to this state at the
7 rate of six percent on net income of ~~five~~ four hundred million dollars or less; at the rate of five
8 percent on net income exceeding ~~five~~ four hundred million dollars but equal to or less than ~~five~~
9 four hundred twenty-five million dollars; at the rate of four percent on the net income exceeding
10 ~~five~~ four hundred twenty-five million dollars but equal to or less than ~~five~~ four hundred fifty
11 million dollars; at the rate of three percent on the net income exceeding ~~five~~ four hundred fifty
12 million dollars but equal to or less than ~~five~~ four hundred seventy-five million dollars; at the rate
13 of two percent on the net income exceeding ~~five~~ four hundred seventy-five million dollars but
14 equal to or less than ~~six~~ five hundred million dollars; ~~and~~ at the rate of one percent on the net
15 income exceeding ~~six~~ five hundred million dollars but equal to or less than six hundred million
16 dollars; at the rate of one-half of one percent on the net income exceeding six hundred million

1 dollars but equal to or less than one billion two hundred million dollars; and at the rate of one-
2 quarter of one percent on the net income exceeding one billion two hundred million dollars. The
3 tax payable under this section may be no less than two hundred dollars for each authorized
4 location at which the financial institution subject to taxation under § 10-43-2 regularly conducts
5 business.

6 Section 2. That subdivision (10) of § 10-43-1 be amended to read as follows:

7 (10) "Person," includes individuals, firms, associations, corporations, estates, fiduciaries,
8 and all entities from which income tax may be due. In no event shall a pass-through
9 entity owned in whole or in part by a financial institution subject to tax under this
10 chapter, and formed primarily to facilitate the securitization of assets, be treated as a
11 person for the purpose of subdivision 10-43-1(4);

12 Section 3. That § 10-43-36 be amended to read as follows:

13 10-43-36. Any related corporation required to report under this chapter and owned or
14 controlled either directly or indirectly by another corporation may elect, or may be required by
15 the secretary of revenue, to make a consolidated report with related corporations that are
16 required to report under this chapter showing the combined net income, such assets of the
17 corporation as are required for the purpose of this chapter, and such other information as the
18 secretary of revenue may require by rule promulgated pursuant to chapter 1-26.

1 **BILL HISTORY**

2 1/25/00 First read in Senate and referred to Commerce. S.J. 186

3 2/1/00 Scheduled for Committee hearing on this date.

4 2/1/00 Deferred by Chair.

5 2/5/00 Scheduled for Committee hearing on this date.

6 2/8/00 Commerce Do Pass Amended, Passed, AYES 5, NAYS 0. S.J. 356

7 2/8/00 Scheduled for Committee hearing on this date.