

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

209H0045

HOUSE EDUCATION COMMITTEE ENGROSSED NO.

HB 1004 - 01/29/2002

Introduced by: Representatives Wick, Bradford, Broderick, Gillespie, Holbeck, McCoy, and Teupel and Senators Moore, Ham, McIntyre, and Sutton (Dan) at the request of the Interim Teacher Credentialing and Compensation Committee

1 FOR AN ACT ENTITLED, An Act to provide for a refund of tuition for certain teachers.

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

3 Section 1. Terms used in this Act mean:

4 (1) "Eligible teacher," a teacher who teaches in a subject area of critical need as
5 determined by the Department of Education and Cultural Affairs, and whose first year
6 of teaching is after the 2002 school year;

7 (2) "Postsecondary tuition," the lesser of five thousand dollars or actual qualified higher
8 education expenses as defined in subdivision 13-63-1(13) paid by the eligible teacher;

9 (3) "Secretary," the secretary of the Department of Education and Cultural Affairs.

10 Section 2. Notwithstanding provisions of § 4-7-39, at the end of each fiscal year, the
11 secretary shall transfer twenty-five percent of any money, not to exceed one million dollars, that
12 has been appropriated for state aid to general education or state aid to special education that has
13 not been spent or legally obligated to the teacher tuition reimbursement fund, which is hereby
14 created. No money may be transferred to the teacher tuition reimbursement fund if the amount



1 in the fund is two million five hundred thousand dollars or more.

2 Section 3. There is hereby created in the state treasury the South Dakota teacher tuition
3 reimbursement fund into which shall be deposited any appropriations, private donations, grants,
4 and other funds provided to the Department of Education and Cultural Affairs for tuition
5 reimbursements to teachers. Any interest earned on the money in the fund shall be deposited in
6 the fund.

7 Section 4. An eligible teacher shall receive a reimbursement equal to seventy-five percent of
8 the teacher's first year's postsecondary tuition if the teacher has taught in South Dakota for three
9 consecutive years following graduation from an accredited college or university.

10 Section 5. An eligible teacher shall receive a reimbursement equal to seventy-five percent of
11 the teacher's second year's postsecondary tuition if the teacher has taught in South Dakota for
12 five consecutive years following graduation from an accredited college or university.

13 Section 6. An eligible teacher shall receive a reimbursement equal to seventy-five percent of
14 the teacher's third year's postsecondary tuition if the teacher has taught in South Dakota for
15 seven consecutive years following graduation from an accredited college or university.

16 Section 7. An eligible teacher shall receive a reimbursement equal to seventy-five percent of
17 the teacher's fourth year's postsecondary tuition if the teacher has taught in South Dakota for
18 nine consecutive years following graduation from an accredited college or university.

19 Section 8. An eligible teacher shall receive an additional reimbursement equal to the
20 remaining twenty-five percent of the teacher's first four year's postsecondary tuition if the teacher
21 has taught in South Dakota for ten consecutive years following graduation from an accredited
22 college or university.

23 Section 9. The Department of Education and Cultural Affairs shall pay eligible teachers their
24 tuition reimbursement out of any money in the teacher tuition reimbursement fund or a

1 proportion of those funds available.

2 Section 10. The Department of Education and Cultural Affairs shall promulgate rules,

3 pursuant to chapter 1-26, to implement the provisions of this Act.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

726H0054

HOUSE TAXATION COMMITTEE ENGROSSED NO.

HB 1059 - 02/05/2002

Introduced by: Representatives Brown (Jarvis), Begalka, Broderick, Fryslie, Hennies (Don), Kooistra, McCaulley, Nachtigal, and Sebert and Senators Diedrich (Larry), de Hueck, and Dennert

1 FOR AN ACT ENTITLED, An Act to revise certain provisions concerning property
2 classifications and assessment appeals.

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

4 Section 1. That § 10-11-16 be amended to read as follows:

5 10-11-16. Any ~~resident~~ property owner or taxpayer of a township or municipality, as an
6 individual or through an attorney or agent, feeling aggrieved by anything in the assessment roll
7 may appeal to the local board of equalization for the correction of alleged errors in the listing or
8 valuation of the person's property. ~~The person shall notify the~~ Any lessee responsible for payment
9 of taxes pursuant to the provisions of a lease shall be considered the taxpayer and may appeal
10 anything in the assessment roll for the correction of alleged errors in the listing or valuation of
11 the leased property. An appeal to the local board of equalization shall be perfected by mailing
12 or by filing a notice of appeal with the clerk of the local board of equalization. If perfected by
13 mailing, the postmark shall be conclusive evidence regarding the timeliness of the appeal. The
14 clerk of the local board of equalization shall be notified of the appeal no later than the Thursday



1 preceding the third Monday in March. An appeal to the local board shall encompass the
2 aggregate valuation of the property being appealed or the property classification.

3 Section 2. That § 10-11-16.1 be amended to read as follows:

4 10-11-16.1. A local board of equalization shall hear individual valuation, classification, and
5 assessment questions of property owners or taxpayers who have appealed to the local board of
6 equalization, and may make adjustments and corrections in the assessment roll. The board shall
7 notify each appellant of the decision affecting the appellant's property in writing seven days after
8 the adjournment of the local board of equalization.

9 Section 3. That § 10-11-22 be amended to read as follows:

10 10-11-22. Any ~~person~~ property owner or taxpayer feeling aggrieved may appeal from the
11 decision of any local board of equalization to the board of equalization of the county in which
12 the municipality or township is situated.

13 Section 4. That § 10-11-23 be amended to read as follows:

14 10-11-23. An appeal from the local board of equalization to a county board of equalization
15 shall be perfected by mailing or by filing a written notice of appeal with the county auditor on
16 or before the first Tuesday in April. If perfected by mailing, the postmark shall be conclusive
17 evidence regarding the timeliness of the appeal. Appeals made pursuant to § 10-11-27 shall be
18 perfected by filing a written notice of appeal with the county auditor on or before the first
19 Tuesday in April. The county auditor shall file a copy of the notice of appeal with the appropriate
20 clerk of the local board of equalization prior to the hearing of the appeal by the county board of
21 equalization.

22 Section 5. That § 10-11-27 be amended to read as follows:

23 10-11-27. No complaint concerning property assessed in any district having a local board of
24 equalization shall be considered unless it has first been made to such local board, except a

1 nonresident owner or nonresident taxpayer of the taxing district may be heard without such
2 original complaint.

3 Section 6. That § 10-11-42 be amended to read as follows:

4 10-11-42. Any ~~person~~ owner or taxpayer feeling aggrieved by the decision of the county
5 board of equalization relative to the assessment of its property or any taxing district or
6 governmental subdivision or agency in which such property is located, feeling aggrieved by the
7 decision of the county board of equalization may appeal to the Office of Hearing Examiners. An
8 appeal to the Office of Hearing Examiners from a county board of equalization shall be perfected
9 by mailing or by filing a notice of appeal with the chief administrative law judge, Pierre, South
10 Dakota, no later than the third Friday in May. If perfected by mailing, the postmark shall be
11 conclusive evidence regarding the timeliness of the appeal. The chief administrative law judge
12 shall file a copy of the notice with the county director of equalization within ten days after receipt
13 of notice of appeal. The county director of equalization shall file notice of appeal to the
14 appropriate clerk of the local board of equalization prior to the hearing of the appeal by the
15 Office of Hearing Examiners. The notice shall state informally the substance of the decision
16 appealed from and the grounds upon which appeal is taken. The county board of equalization
17 or any person pecuniarily interested in sustaining its decision, as well as the appellant, may be
18 heard in person or by attorney upon appeals to the Office of Hearing Examiners. Nothing in this
19 section prevents an appeal to the circuit court as provided in § 10-11-44, but an appeal to either
20 tribunal excludes an appeal to the other.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

226H0307

HOUSE EDUCATION COMMITTEE ENGROSSED NO.

HB 1068 - 02/06/2002

Introduced by: Representatives Richter, Brown (Richard), Davis, Eccarius, Flowers, Michels, Murschel, and Olson (Mel) and Senators Olson (Ed), Craddock, Hutmacher, Koetzle, McCracken, Moore, Munson, and Sutton (Dan)

1 FOR AN ACT ENTITLED, An Act to require the recalculation of the allocation for the
2 disability levels in the state aid to special education formula.

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

4 Section 1. That chapter 13-37 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 In fiscal year 2004 and every three years thereafter, the Department of Education and
7 Cultural Affairs shall recalculate the amounts of the allocations for the disability levels defined
8 in § 13-37-35.1. The recalculation shall be based on statewide average expenditures as reported
9 to the Department of Education and Cultural Affairs in school district annual reports by disability
10 for the previous three school fiscal years.



State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

337H0178

HOUSE EDUCATION COMMITTEE ENGROSSED NO.

HB 1085 - 01/30/2002

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

Introduced by: Representatives McCaulley, Garnos, and Wick

1 FOR AN ACT ENTITLED, An Act to establish a master teacher program to award certain
2 teachers.

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

4 Section 1. The Department of Education and Cultural Affairs shall establish a master teacher
5 program. The South Dakota master teacher program shall reward qualified teachers in qualified
6 school districts by means of a yearly bonus of not more than six thousand dollars per year.

7 Section 2. The Department of Education and Cultural Affairs may allocate only those funds
8 appropriated by the Legislature for the purposes of this Act to each qualified school district
9 according to its relative portion of the total average daily membership as defined in § 13-13-10.1.
10 Any qualified school district may access a portion of the funds for the South Dakota master
11 teacher program if the school district implements a plan to reward teachers who demonstrate
12 excellence and mastery in their profession. All moneys allocated for school districts that are not
13 qualified school districts, shall be redistributed to the qualified school districts on an average
14 daily membership basis.



1 Section 3. If a qualified school identifies a teacher who has demonstrated excellence and
2 mastery, the qualified school district shall provide a written recommendation and substantiation,
3 along with the specific amount of the bonus to be paid, to the Department of Education and
4 Cultural Affairs after March first and before April fifteenth. The qualified school district is limited
5 to requesting bonuses in an amount not to exceed the amount allocated for such school district.

6 Section 4. For purposes of this Act, a master teacher must comply with the plan developed
7 by the qualified school district and meet the following criteria:

- 8 (1) The teacher has taught at least three years in the qualified school district;
- 9 (2) The teacher exhibits excellence and mastery in both a subject area and teaching
10 methods;
- 11 (3) The teacher is committed to students and their learning;
- 12 (4) The teacher is responsible for managing and monitoring student learning;
- 13 (5) The teacher thinks systematically about teaching and learns from experience;
- 14 (6) The teacher is a member of learning communities;
- 15 (7) The teacher submits a portfolio of professional work;
- 16 (8) The teacher is able to demonstrate student performance; and
- 17 (9) The teacher is endorsed by an administrator, a school board member, a parent, a
18 colleague, or a student in the school district currently employing the teacher.

19 Section 5. For purposes of this Act, a qualified school district is one that meets the following
20 criteria:

- 21 (1) The school district has a general fund balance of not more than thirty-five percent of
22 total general fund expenditures for the previous school year;
- 23 (2) The school district rewards not more than twenty-five percent of its teachers, in any
24 school year, with funds from the South Dakota master teacher program;

1 (3) The school district awards money to master teachers without a reduction or offset in
2 their regular salary;

3 (4) The school district develops a plan to reward master teachers with the advice and
4 counsel of members of the community, administration, and teachers;

5 (5) The school district identifies a panel of individuals designated to select the master
6 teachers. The panel shall consist of seven members including a teacher, an
7 administrator, a school board member, a student, a former student, a parent, and a
8 member of the business community;

9 (6) The school district's plan is approved by the Department of Education and Cultural
10 Affairs.

11 Section 6. The secretary of the Department of Education and Cultural Affairs shall approve
12 vouchers and the state auditor shall draw warrants to pay expenditures authorized by this Act.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

552H0091 **HOUSE APPROPRIATIONS COMMITTEE ENGROSSED**
NO. HB 1092 - 02/05/2002

Introduced by: Representatives Adelstein, Klautdt, and Van Etten and Senators Brown
(Arnold), Apa, and Madden

1 FOR AN ACT ENTITLED, An Act to provide resident tuition rates for certain nonresident
2 National Guard members and to revise certain tuition benefits for resident National Guard
3 members.

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

5 Section 1. Any person who is not a South Dakota resident who is a member of the South
6 Dakota National Guard, upon compliance with all the requirements for admission and subject
7 to the provisions of section 3 of this Act, is entitled to attend and pursue any undergraduate
8 course or courses in any state educational institution under the control and management of the
9 Board of Regents upon the payment of tuition at the rate established for a South Dakota
10 resident. However, no eligible National Guard member is entitled to more than four academic
11 years under this Act. The Board of Regents shall maintain an annual record of the number of
12 participants and the tuition dollar value of such participation. Nothing in this section may cause
13 any National Guard member's tuition rate, relative to current resident tuition rates, to increase
14 beyond the tuition rate that applied to the National Guard member during the most recent



1 semester or academic term in which the member was enrolled before the effective date of this
2 Act.

3 Section 2. To be eligible for resident tuition pursuant to this Act, a National Guard member
4 shall:

- 5 (1) Be a member of the South Dakota Army National Guard unit or South Dakota Air
6 National Guard unit throughout each semester for which the member applies for
7 benefits;
- 8 (2) Maintain a minimum ninety percent attendance on scheduled drill dates and at annual
9 training with the member's parent unit;
- 10 (3) Maintain satisfactory academic progress; and
- 11 (4) Provide proper notice to the institution at the time of registration for the term in
12 which the benefits are sought.

13 Section 3. Any person desiring to use the benefits of this Act shall apply to the Department
14 of Military and Veterans Affairs. The secretary of military and veterans affairs shall determine
15 whether the person is entitled to the benefits of this Act. The secretary of military and veterans
16 affairs may promulgate rules pursuant to chapter 1-26 to establish the procedures for determining
17 benefits, the records to be maintained, the procedures to apply for benefits, and the procedures
18 for an appeal.

19 Section 4. That § 13-55-23 be amended to read as follows:

20 13-55-23. Notwithstanding any other provisions of law, legislatively mandated exemptions,
21 whether whole or partial, from the obligation to pay tuition or other required fees apply only to
22 classes, courses and instructional programs directly supported by moneys appropriated from the
23 general fund. This section does not apply to tuition exemptions for members of the South Dakota
24 National Guard.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

975H0266

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1113** - 02/05/2002

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

Introduced by: Representatives Hennies (Thomas), Hennies (Don), Kooistra, McCoy, Monroe, Murschel, Nesselhuf, Pederson (Gordon), Pitts, Slaughter, Van Etten, and Van Gerpen and Senators Whiting, Daugaard, de Hueck, Dennert, Ham, Kleven, McCracken, McIntyre, Moore, Olson (Ed), Reedy, Staggers, Sutton (Dan), and Volesky

1 FOR AN ACT ENTITLED, An Act to require the Department of Corrections to seek
2 membership in the Performance-based Standards Project and to declare an emergency.

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

4 Section 1. The Department of Corrections shall seek membership in the Performance-based
5 Standards Project sponsored by the Office of Juvenile Justice and Delinquency Prevention,
6 United States Department of Justice. The Department of Corrections shall apply for membership
7 as an implementation site and shall sign an agreement with the Council of Juvenile Correctional
8 Administrators, hereinafter referred to as the council, committing adequate resources to
9 complete the data collection cycles and facility improvement plans.

10 Section 2. If the membership application in section 1 of this Act is approved, the Department
11 of Corrections shall apply to the council for demonstrated program funding provided by the
12 Office of Juvenile Justice Delinquency Prevention to support changes and actions outlined in



1 facility improvement plans.

2 Section 3. If the membership application in section 1 of this Act is approved, the department
3 may request federal spending authority from the committee created in § 4-8A-2.

4 Section 4. If the membership application in section 1 of this Act is approved, the Department
5 of Corrections shall appoint at least one manager who shall organize and supervise agency
6 resources and activities to achieve membership and completion of designated programs.

7 Section 5. No child in the custody of the State of South Dakota or any subdivision thereof
8 may be placed in any program unless that program is actively seeking membership in the
9 Performance-based Standards Project, has completed designated programs involved with
10 membership in the council, is actively seeking accreditation through application, or is accredited
11 by the American Corrections Association if such accreditation is available.

12 Section 6. The Department of Corrections shall write a report detailing the assessments made
13 by the council and the actions taken by the department. The Department of Corrections shall
14 present the report semiannually to the Corrections Commission, established in § 1-15-1.13,
15 beginning on June 30, 2002. The department shall present the report to the Governor and the
16 Legislature annually, beginning on January 1, 2003.

17 Section 7. Whereas, this Act is necessary for the support of the state government and its
18 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full
19 force and effect from and after its passage and approval.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

186H0186

HOUSE TRANSPORTATION COMMITTEE

ENGROSSED NO. **HB 1121** - 02/06/2002

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

Introduced by: Representatives Sutton (Duane) and Frost and Senator Diedtrich (Elmer)

1 FOR AN ACT ENTITLED, An Act to revise the requirements for the location of side exhaust
2 on certain motor vehicles.

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

4 Section 1. That § 32-15-17 be amended to read as follows:

5 32-15-17. No person may drive a motor vehicle on a highway unless the motor vehicle is
6 equipped with an exhaust system and a muffler both in good working condition and in constant
7 operation to prevent excessive or unusual noise.

8 Exhaust systems on passenger or passenger-carrying vehicles used on any highway shall
9 discharge the exhaust fumes at a location to the rear of the vehicle body or direct the exhaust
10 fumes outward from the side of the vehicle body at a location rearward of any operable side
11 windows. Any motor vehicle equipped with side exhaust according to the original vehicle
12 manufacturer specifications is exempt from the location requirements. A bus used for the purpose
13 of carrying school children may discharge the exhaust on the left side in front of the rear axle.

14 Exhaust systems on property-carrying vehicles used on any highway shall discharge the



- 1 exhaust fumes at a point rearward of the passenger-carrying compartment.
- 2 No person may use a "muffler cut-out" on any motor vehicle upon a highway.
- 3 A violation of this section is a Class 2 misdemeanor.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

415H0566 HOUSE APPROPRIATIONS COMMITTEE ENGROSSED
NO. **HB 1124** - 02/06/2002

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

Introduced by: Representatives Brown (Richard), Elliott, Flowers, Murschel, Olson (Mel),
and Sutton (Duane) and Senators Hutmacher, Albers, McIntyre, Moore,
Olson (Ed), and Sutton (Dan)

1 FOR AN ACT ENTITLED, An Act to restrict the transfer of certain appropriated money and
2 to provide for the distribution of certain appropriated money.

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

4 Section 1. There is hereby established an education enhancement program within the
5 Department of Education and Cultural Affairs. The education enhancement program shall
6 distribute money to school districts to be used to reward teachers who have demonstrated their
7 excellence in the teaching profession.

8 Section 2. Any money appropriated to the Department of Education and Cultural Affairs for
9 education enhancement shall be distributed to school districts as provided by this Act.

10 Section 3. If a school district meets the criteria established by this Act, the Department of
11 Education and Cultural Affairs shall allocate money which may be appropriated for education
12 enhancement to each school district based on the school district's pro rata share of statewide
13 average daily membership.



1 Section 4. Criteria established by the Department of Education and Cultural Affairs for
2 school districts to receive money appropriated for education enhancement include but are not
3 limited to:

4 (1) A school district may not reward more than forty percent of its teachers, in any
5 school year, with money it receives for education enhancement;

6 (2) A school district may not reduce or offset the salary of a teacher with money received
7 for the purpose of education enhancement;

8 (3) A school district shall develop a plan to reward teachers with money received for the
9 purpose of education enhancement; and

10 (4) The plan to reward teachers with money received for the purpose of education
11 enhancement shall be developed with the advice and counsel of members of the
12 community, administration, and teachers.

13 Section 5. The Department of Education and Cultural Affairs shall promulgate rules pursuant
14 to chapter 1-26 to implement the provisions of this Act.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

552H0473

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1137** - 02/06/2002

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

Introduced by: Representatives Olson (Mel), Bartling, Bradford, Burg, Davis, Elliott, Flowers, Gillespie, Glenski, Hanson (Gary), Hargens, Hundstad, Kloucek, Lange, Nachtigal, Nesselhuf, Peterson (Jim), Sigdestad, Valandra, and Van Norman and Senators Hutmacher, Dennert, Duxbury, Hagen, Koetzle, McIntyre, Moore, Reedy, Sutton (Dan), and Volesky

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the compensation and
2 the meetings of the State Cement Plant Commission.

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

4 Section 1. That § 5-17-4 be amended to read as follows:

5 5-17-4. The compensation of the members of the State Cement Plant Commission, ~~other than~~
6 ~~the secretary-treasurer,~~ shall be payable ~~monthly~~ quarterly, with their actual and necessary
7 expenses to be paid in the same manner as other expenditures out of the cement plant fund, upon
8 presentation of itemized, verified vouchers. ~~It is further provided that the~~ The State Cement Plant
9 Commission shall meet at ~~least once each month~~ the call of the chair or at the call of a majority
10 of the members of the commission.



State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

466H0522

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1160 - 02/06/2002

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

Introduced by: Representatives Adelstein, Clark, and Murschel

1 FOR AN ACT ENTITLED, An Act to expand certain tort liability arising out of causes of action

2 based on reduction, abduction, and alienation of affections.

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

4 Section 1. That § 20-9-7 be amended to read as follows:

5 20-9-7. The rights of personal relation forbid:

6 (1) The abduction of a husband from his wife or of a parent from his child;

7 (2) The abduction or enticement of a wife from her husband, of a child from a parent, or
8 from a guardian entitled to its custody;

9 (3) The seduction of a wife, daughter, or orphan sister;

10 (4) The abduction or enticement of a husband from his wife, of a child from a parent, or
11 from a guardian entitled to its custody;

12 (5) The seduction of a husband, brother, or orphan brother.



State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

118H0509

HOUSE EDUCATION COMMITTEE ENGROSSED NO.

HB 1166 - 01/24/2002

Introduced by: Representatives Holbeck, Garnos, and Van Etten and Senators Reedy, Albers,
Daugaard, Munson, and Sutton (Dan)

1 FOR AN ACT ENTITLED, An Act to provide for a master teacher program and to make an
2 appropriation therefor.

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

4 Section 1. The master teacher program is hereby established within the Department of
5 Education and Cultural Affairs. Each year the department shall select one hundred teachers from
6 South Dakota's public school districts and designate those teachers as master teachers.

7 Section 2. Any person employed as a full time teacher in a South Dakota public school
8 district may apply to the Department of Education and Cultural Affairs to be designated as a
9 master teacher.

10 Section 3. The Department of Education and Cultural Affairs may establish criteria for
11 selection of master teachers provided that the criteria include five years of teaching experience,
12 experience in remote teaching or other use of technology in teaching, endorsement by the
13 principal of the school in which the teacher teaches or by the superintendent of the school district
14 that employs the teacher, and submission of a resume or portfolio by the applicant.



1 Section 4. Each teacher selected as a master teacher is entitled to an award of five thousand
2 dollars upon receiving the award and an award of one thousand dollars for each year after that,
3 up to five years. The one-half of the initial five thousand dollar award shall be paid by the State
4 of South Dakota and one-half shall be paid by the school district that employs the teacher. The
5 subsequent one thousand dollar awards shall be paid by the school district that employs the
6 teacher. If a teacher who has been designated as a master teacher becomes employed by another
7 South Dakota public school district, that school district assumes the responsibility for any award
8 under the provisions of this Act to which the teacher is entitled.

9 Section 5. There is hereby appropriated from the general fund the sum of two hundred fifty
10 thousand dollars (\$250,000), or so much thereof as may be necessary, to the Department of
11 Education and Cultural Affairs to pay master teacher awards as provided for in this Act..

12 Section 6. The secretary of the Department of Education and Cultural Affairs shall approve
13 vouchers and the state auditor shall draw warrants to pay expenditures authorized by this Act.

14 Section 7. Any amounts appropriated in this Act not lawfully expended or obligated by
15 June 30, 2003, shall revert in accordance with § 4-8-21.

16 Section 8. The Department of Education and Cultural Affairs may promulgate rules pursuant
17 to chapter 1-26 to implement the provisions of this Act.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

923H0544

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1168** - 02/06/2002

Introduced by: Representatives Peterson (Bill), Eccarius, and Olson (Mel) and Senators
Everist, Brown (Arnold), and Hutmacher

1 FOR AN ACT ENTITLED, An Act to provide for a study of the legislative article of the South
2 Dakota Constitution.

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

4 Section 1. The Executive Board of the Legislative Research Council shall appoint an interim
5 legislative committee to study Article III of the South Dakota Constitution. The committee shall
6 make recommendations to the 2003 Legislature regarding the length of legislative sessions,
7 legislator term limits, the legislative redistricting process, legislator conflicts of interest, and the
8 powers and duties of the Legislature.



State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

598H0511 **HOUSE APPROPRIATIONS COMMITTEE ENGROSSED**
NO. HB 1191 - 02/06/2002

Introduced by: Representatives Solum, Bartling, Bradford, Burg, Holbeck, Kloucek, McCoy,
and Van Gerpen and Senators Greenfield, Brosz, Dennert, and Koetzle

1 FOR AN ACT ENTITLED, An Act to appropriate funds for increased wages for employees of
2 nursing facilities and to define the distribution from the health care trust fund.

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

4 Section 1. There is hereby appropriated from the general fund the sum of one million dollars
5 (\$1,000,000), or so much thereof as may be necessary, to the Department of Social Services.

6 Section 2. There is hereby appropriated two million dollars (\$2,000,000) of federal fund
7 expenditure authority, or so much thereof as may be necessary, to the Department of Social
8 Services.

9 Section 3. The funds appropriated by this Act shall be used for the exclusive purpose of
10 providing wage increases to employees of nursing facilities, except nursing facility administrators
11 as defined by subdivision 36-28-1(3).

12 Section 4. The secretary of the Department of Social Services shall approve vouchers and
13 the state auditor shall draw warrants to pay expenditures authorized by this Act.

14 Section 5. Any amounts appropriated in this Act not lawfully expended or obligated by



1 June 30, 2003, shall revert in accordance with § 4-8-21.

2 Section 6. On July 1, 2002, or as soon thereafter as funds are available, the state treasurer
3 shall transfer one million dollars (\$1,000,000) in earned income from the health care trust fund
4 to the general fund.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

834H0048

HOUSE EDUCATION COMMITTEE ENGROSSED NO.

HB 1199 - 02/06/2002

Introduced by: Representatives Richter, Begalka, Broderick, Frost, Hansen (Tom), Hennies (Thomas), Murschel, and Smidt and Senators Apa, Olson (Ed), and Putnam

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to the general fund levy
2 of a school district.

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

4 Section 1. That § 10-12-42 be amended to read as follows:

5 10-12-42. For taxes payable in ~~2002~~ 2003 and each year thereafter, the levy for the general
6 fund of a school district shall be as follows:

7 (1) The maximum tax levy shall be thirteen dollars and ninety-three cents per thousand
8 dollars of taxable valuation subject to the limitations on agricultural property as
9 provided in subdivision (2) of this section, owner-occupied property as provided for
10 in subdivision (3) of this section, and nonagricultural acreage property as provided for
11 in subdivision (4) of this section;

12 (2) The maximum tax levy on agricultural property for such school district shall be four
13 dollars and four cents per thousand dollars of taxable valuation. If the district's levies
14 are less than the maximum levies as stated in this section, the levies shall maintain the



1 same proportion to each other as represented in the mathematical relationship at the
2 maximum levies;

3 (3) The maximum tax levy for an owner-occupied single-family dwelling as defined in
4 § 10-13-40, for such school district may not exceed six dollars and fifty cents per
5 thousand dollars of taxable valuation. If the district's levies are less than the maximum
6 levies as stated in this section, the levies shall maintain the same proportion to each
7 other as represented in the mathematical relationship at the maximum levies; and

8 (4) The maximum tax levy on nonagricultural acreage property as defined in
9 § 10-6-33.14, for such school district shall be five dollars and four cents per thousand
10 dollars of taxable valuation. If the district's levies are less than the maximum levies as
11 stated in this section, the levies shall maintain the same proportion to each other as
12 represented in the mathematical relationship at the maximum levies.

13 All levies in this section shall be imposed on valuations where the median level of assessment
14 represents eighty-five percent of market value as determined by the Department of Revenue.
15 These valuations shall be used for all school funding purposes. If the district has imposed an
16 excess levy pursuant to § 10-12-43 before July 1, 2002, the levies shall maintain the same
17 proportion to each other as represented in the mathematical relationship at the maximum levies
18 in this section. If the district imposes an excess levy pursuant to § 10-12-43 on or after July 1,
19 2002, the excess levy shall be made in proportion to the taxable valuation without regard to the
20 maximum levies in this section. The school district may elect to tax at less than the maximum
21 amounts set forth in this section.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

617H0610

HOUSE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **HB 1211** - 02/05/2002

Introduced by: Representative Abdallah and Senator McCracken

1 FOR AN ACT ENTITLED, An Act to provide for the use of electric personal assistive mobility
2 devices.

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

4 Section 1. For the purposes of this Act, the term, electric personal assistive device, means
5 a self-balancing two non-tandem wheeled device, designed to transport only one person, with
6 an electric propulsion system that limits the maximum speed of the device to fifteen miles per
7 hour per hour or less.

8 Section 2. That § 32-26-21.1 be amended to read as follows:

9 32-26-21.1. No person may drive any vehicle other than a bicycle or an electric personal
10 assistive device upon a sidewalk or sidewalk area except upon a permanent or duly authorized
11 temporary driveway. The local governing body of a municipality may restrict a bicycle or an
12 electric personal assistive device from operating upon a sidewalk or sidewalk area. A violation
13 of this section is a Class 2 misdemeanor.

14 Section 3. An electric personal assistive device is exempt from the provisions of chapters 32-
15 3, 32-5, 32-5A, 32-5B, 32-6B, 32-15, 32-17, 32-18, 32-20, 32-37, and 37-5.



1 Section 4. That § 32-27-1.1 be amended to read as follows:

2 32-27-1.1. The term, pedestrian, when used in this chapter means any person moving or
3 traveling on foot, including any person wearing roller skates ~~or~~, riding on a skateboard, or riding
4 on an electric personal assistive device.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

750H0537

HOUSE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **HB 1216** - 02/05/2002

Introduced by: Representatives Duniphan, Abdallah, Burg, Derby, Klaudt, Madsen, McCoy, Pederson (Gordon), Pitts, Van Gerpen, and Wick and Senators Vitter, Brown (Arnold), Daugaard, Madden, Munson, and Whiting

1 FOR AN ACT ENTITLED, An Act to authorize shareholders to vote and to make certain other
2 communications by electronic means.

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

4 Section 1. That subdivisions (33) and (34) of § 47-2-1 be amended to read as follows:

5 (33) "Vote" includes authorization by written or electronic document signed and
6 transmitted by all of the persons, shareholders or directors, required to take the action
7 described. The term also means the counterparts of a written or electronic document
8 signed and transmitted by any of the persons taking the action described. Each
9 counterpart constitutes the action of the persons signing and transmitting it, and all
10 the counterparts, taken together, constitute one written action by all of the persons
11 signing them;

12 (34) "Written action" means a written or electronic document signed and transmitted by
13 all of the persons, shareholders or directors, required to take the action described. The
14 term also means the counterparts of a written or electronic document signed and



1 transmitted by any of the persons taking the action described. Each counterpart
2 constitutes the action of the persons signing ~~or~~ and transmitting it, and all the
3 counterparts, taken together, constitute one written action by all of the persons
4 signing them.

5 Section 2. That § 47-4-16 be amended to read as follows:

6 47-4-16. A shareholder may vote either in person or by proxy executed in writing or by
7 electronic transmission by the shareholder or by ~~his~~ the shareholder's duly authorized attorney
8 in fact. No proxy ~~shall be~~ is valid after eleven months from the date of its execution, unless
9 otherwise provided in the proxy. A solicitation for proxies ~~must~~ shall specifically state the
10 matters for which proxies are sought, and a no proxy ~~cannot~~ may be voted on any matter not
11 specified in the solicitation. If the vote is made by electronic transmission, the transmission shall
12 either set forth or be submitted with information from which it can be determined that the
13 transmission was authorized by the shareholder or proxy holder.

14 Section 3. That § 47-5-10 be amended to read as follows:

15 47-5-10. ~~Whenever~~ If any notice is required to be given to any director of a corporation
16 under the provisions of chapters 47-2 to 47-9, inclusive, or under the provisions of the articles
17 of incorporation or bylaws of the corporation, a waiver thereof in writing or by electronic
18 transmission signed and transmitted by the person or persons entitled to such notice, whether
19 before or after the time stated therein, ~~shall be~~ is equivalent to the giving of such notice.

20 Section 4. That § 47-5-11 be amended to read as follows:

21 47-5-11. Unless otherwise provided by the articles of incorporation or bylaws, any action
22 required by chapters 47-2 to 47-9, inclusive, to be taken at a meeting of the directors of a
23 corporation, or any action which may be taken at a meeting of the directors or of a committee,
24 may be taken without a meeting if a consent in writing or by electronic transmission, setting forth

1 the action so to be taken, shall be signed and transmitted before such action by all of the
2 directors, or all of the members of the committee, as the case may be. Such consent ~~shall have~~
3 has the same effect as a unanimous vote.

4 Section 5. For the purposes of this Act, if an electronic signature is required or the term,
5 signed, is used in connection with an electronic transmission, the term means an electronic sound,
6 symbol, or process attached to or logically associated with a record and executed or adopted by
7 a person with the intent to sign the record.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

471H0463

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1236** - 01/31/2002

Introduced by: Representatives Teupel, Adelstein, Derby, Duenwald, Duniphan, Eccarius, Hanson (Gary), Hennies (Thomas), Jaspers, Jensen, Juhnke, Klaudt, Lintz, Madsen, McCoy, Napoli, Pederson (Gordon), Peterson (Bill), Pummel, Rhoden, and Van Etten and Senators Apa, Bogue, Brown (Arnold), Diedrich (Larry), Ham, Kleven, Madden, McCracken, Symens, Vitter, and Whiting

1 FOR AN ACT ENTITLED, An Act to declare a disaster in certain federal forest areas and to
2 authorize state and local remedial action.

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

4 Section 1. The Legislature finds that:

5 (1) Numerous citizens and government officials in the state of South Dakota have
6 repeatedly petitioned the United States Forest Service both collectively and
7 individually at public meetings, by correspondence, and by telephone to request that
8 the United States Forest Service take appropriate action to remove or eliminate the
9 conditions that have created a state of emergency caused by a present risk to the lives
10 and property of citizens in and adjacent to the Black Hills National Forest;

11 (2) All the petitions have for all practical purposes been either ignored or discounted by
12 the United States Forest Service resulting only in what can be reasonably
13 characterized as inaction on the part of the United States Forest Service to



1 appropriately reduce, if not remove, the risk to the lives and property of the citizens
2 of South Dakota;

3 (3) Because the United States Forest Service has failed to exercise its responsibilities as
4 a sovereign to protect the lives and property of the citizens of South Dakota and
5 because it is a fundamental principle under the laws of any just society that the
6 persistent failure of a sovereign to fulfill such obligations constitutes grounds for the
7 forfeiture of jurisdictional supremacy, such a forfeiture must hereby be recognized and
8 declared; and

9 (4) Because of recognition and declaration of this forfeiture of jurisdictional supremacy,
10 a jurisdictional vacuum has been created that requires the state of South Dakota to
11 acknowledge its obligations as a sovereign power to protect the lives and property of
12 its citizens and consequently to authorize any action it presently deems necessary to
13 fill the vacuum created by the federal government by assuming jurisdiction to reduce
14 to acceptable levels, if not remove, the threat of catastrophic fires posed by present
15 conditions in national forests within its borders.

16 Section 2. The Legislature declares a disaster within those areas of the Black Hills National
17 Forest, as determined by the secretary of agriculture in cooperation with the local board of
18 county commissioners, that have suffered severe fire damage, that have suffered damage caused
19 by weather events or other natural disasters that increase the risk of fire, that face severe risk
20 posed by the infestation and spread of the mountain pine beetle or other noxious weeds and
21 pests, or areas in which large amounts of forest undergrowth have created the potential for
22 damaging fires in the future. The Legislature also declares that the disaster is of such magnitude
23 that the police power of the state may be exercised to the extent necessary to provide the
24 resources and services that will end the disaster and mitigate its effects.

1 Section 3. After consulting with the state forester, state wildland fire coordinator, and the
2 United States Forest Service regional forester, taking surveys, holding public hearings as may
3 be necessary, and developing a plan to mitigate the effects of the disaster, a board of county
4 commissioners for a county in which a disaster has been declared pursuant to section 2 of this
5 Act may take such actions as are necessary to clear and thin undergrowth and to remove or log
6 fire-damaged or pest-damaged trees within the area of the disaster. A county may enter into an
7 agreement with a contractor, licensee or other agent to carry out the purposes of this section.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

381H0657

HOUSE AGRICULTURE AND NATURAL RESOURCES

COMMITTEE ENGROSSED NO. **HB 1254** -

02/05/2002

Introduced by: Representatives Fryslie, Duenwald, Hanson (Gary), and Jensen and Senators
Diedrich (Larry), Ham, and Symens

1 FOR AN ACT ENTITLED, An Act to revise certain provisions related to livestock auction
2 agencies and livestock dealers and to establish a penalty.

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

4 Section 1. That chapter 40-15 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 For purposes of this chapter, the term, livestock, means cattle, sheep, horses, mules, swine,
7 goats, and buffalo.

8 Section 2. That § 40-15-10 be amended to read as follows:

9 40-15-10. No person may operate a livestock auction agency without first filing with the
10 Animal Industry Board a corporate surety bond as required under the provisions of the Federal
11 Packers and Stockyard Act, 1921, as amended to January 1, 2002, for livestock agencies selling
12 on commission. The bond shall be filed with the Animal Industry Board and a certified copy
13 thereof shall be filed with the chief of the Packers and Stockyards Division of the United States
14 Department of Agriculture. The obligee of the bond ~~shall be~~ is the Animal Industry Board with



1 the executive secretary thereof as trustee, with full power and authority to consider claims and
2 pay valid claims from bond proceeds, subject to applicable federal law. The bond shall be for the
3 benefit of all persons sustaining loss which may be covered by the obligation of the bond. The
4 bond shall be approved by the Animal Industry Board as to its sufficiency and by the attorney
5 general as to form prior to filing. The amount of the bond may not be less than twenty thousand
6 dollars. Any person who operates a livestock auction agency in violation of this section is guilty
7 of a Class 1 misdemeanor.

8 Section 3. That chapter 40-15 be amended by adding thereto a NEW SECTION to read as
9 follows:

10 If a livestock auction agency's license is relinquished, revoked, or suspended by the Animal
11 Industry Board, subject to applicable federal law, the Animal Industry Board may assume control
12 of any account and funds described in § 40-15-31, including collection of any deposit items,
13 identification and processing of claims to the funds, and payment of valid claims from the
14 available funds.

15 Section 4. That § 40-15-36 be amended to read as follows:

16 40-15-36. The Animal Industry Board shall enforce the provisions of this chapter and may
17 promulgate rules pursuant to chapter 1-26 concerning:

- 18 (1) The licensure of livestock auction agencies;
- 19 (2) The requirements for facilities;
- 20 (3) The handling of any animal found to be affected with any infectious, contagious, or
21 transmissible disease;
- 22 (4) The requirements for inspecting, examining, and testing of livestock passing through
23 a livestock auction agency; ~~and~~
- 24 (5) The reporting and record keeping requirements for livestock auction agencies; and

1 (6) Procedures for the consideration, processing, and payment of claims from bond
2 proceeds and, if a livestock auction agency's license is relinquished, revoked or
3 suspended, procedures for the collection of deposit items, processing of claims to the
4 funds, and payment of valid claims in accordance with sections 2 and 3 of this Act.

5 Such rules shall be sent to each licensed auction agency, there to be posted by such agency
6 plainly, visibly, and conspicuously, and with the license on the premises so as to be available to
7 any person using the service of such agency.

8 Section 5. That subdivision (3) of § 40-15A-1 be amended to read as follows:

9 (3) "Livestock," cattle, sheep, horses, mules, swine, buffalo, and goats;

10 Section 6. That § 40-15A-5 be amended to read as follows:

11 40-15A-5. Every livestock dealer, packer or packer buyer applying for a license under this
12 chapter shall file with the animal industry board and maintain a fully executed duplicate of a valid
13 and effective bond in the form and amount to be determined by the board, ~~or if he~~. If the
14 livestock dealer, packer, or packer buyer is registered and bonded under the provisions of an act
15 of Congress cited as the "Packers and Stockyards Act, 1921," adopted August 15, 1921, as
16 amended to January 1, 2002, and codified at 7 U.S.C. Chapter 9, the livestock dealer, packer,
17 or packer buyer shall file a statement in the form prescribed by the board evidencing that ~~he~~ the
18 livestock dealer, packer, or packer buyer is maintaining a valid and effective bond or its
19 equivalent under said act. If a packer buyer is in full-time employ of a packer bonded under this
20 section, ~~such~~ the packer buyer need not be bonded. The bond shall be for the benefit of all
21 persons sustaining a loss which may be covered by the obligation of the bond. The obligee of the
22 bond shall be the Animal Industry Board with the executive secretary of the board as trustee,
23 with full power and authority to consider claims and pay valid claims from bond proceeds subject
24 to applicable federal law. The Animal Industry Board may promulgate rules, pursuant to chapter

1 1-26, to establish procedures for the consideration, processing, and payment of claims from bond
2 proceeds in accordance with this section. Any livestock dealer, packer, or packer buyer in
3 violation of this section is guilty of a Class 1 misdemeanor.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

832H0475

HOUSE TRANSPORTATION COMMITTEE ENGROSSED NO. **HB 1265** - 02/06/2002

Introduced by: Representatives Abdallah, Broderick, Brown (Jarvis), Brown (Richard), Davis, Derby, Duenwald, Duniphan, Frost, Fryslie, Hanson (Gary), Heineman, Hennies (Thomas), Hundstad, Jaspers, Juhnke, Konold, Kooistra, Madsen, McCaulley, Murschel, Napoli, Nesselhuf, Peterson (Bill), Richter, Sebert, and Valandra and Senators Munson, Albers, Cradduck, Diedrich (Larry), Hutmacher, McCracken, and Symens

1 FOR AN ACT ENTITLED, An Act to allow for the issuance of metal plates with a special
2 designation to auction agencies.

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

4 Section 1. That chapter 32-6B be amended by adding thereto a NEW SECTION to read as
5 follows:

6 The department shall issue metal numerical license plates to an auction agency upon
7 application and payment of a one hundred dollar yearly fee to be paid at the time of the annual
8 review date for each set desired. Such fees shall be distributed in the manner specified in
9 §§ 32-11-2 and 32-11-4.1 to 32-11-9, inclusive. The license plates shall be numbered
10 consecutively and shall bear as a prefix the number 99. The plates may be issued for a multiple
11 year period. If an auction agency's license is revoked or canceled or the auction agency goes out
12 of business, the 99 plates shall be returned to the department. If any person operates a motor



1 vehicle with 99 plates after the auction agency's license is revoked or canceled or after the
2 auction agency goes out of business, or if the person refuses to return the plates, the person is
3 guilty of a Class 2 misdemeanor.

4 Section 2. That chapter 32-6B be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Any vehicle being transported to or from the auction agency's place of business bearing a 99
7 license plate issued pursuant to section 1 of this Act may be driven on the streets and highways
8 of this state for the purpose of transporting a vehicle that will be sold or has been sold by the
9 auction agency. The 99 license plate is transferable by the auction agency from one vehicle to
10 another vehicle for transporting purposes. A violation of this section is a Class 2 misdemeanor.

11 Section 3. That § 32-6B-36.2 be repealed.

12 ~~— 32-6B-36.2. Any vehicle that is in the possession of a dealer's car auction agency and that~~
13 ~~will be offered for sale may be driven upon the streets and highways of this state within a twenty~~
14 ~~mile radius of the car auction agency for travel to and from a service facility, such as a repair,~~
15 ~~body, or detail shop, if displaying an in-transit auction permit. The department shall prescribe the~~
16 ~~form for the in-transit auction permit.~~

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

606H0620

HOUSE COMMERCE COMMITTEE ENGROSSED NO.

HB 1272 - 02/05/2002

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

Introduced by: Representatives Clark, Abdallah, Flowers, Fryslie, Hansen (Tom), Hennies (Don), Jaspers, Lintz, Pummel, and Rhoden and Senators Diedrich (Larry), Craddock, Hutmacher, Madden, Olson (Ed), and Reedy

1 FOR AN ACT ENTITLED, An Act to authorize certain wine shipments, to levy an excise tax,
2 and to establish certain penalties.

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

4 Section 1. Terms used in this Act mean:

5 (1) "Winery," any entity that produces table, sparkling, or sacramental wines from grapes,
6 grape juice, other fruit bases, or honey;

7 (2) "Table, sparkling, and sacramental wine," any beverage made without rectification or
8 fortification and containing not more than eighteen percent alcohol by volume and
9 made by the fermentation of grapes, grape juice, other fruits, or honey.

10 Section 2. The secretary of the Department of Revenue may issue a direct shipment wine
11 license to the owner or operator of a winery located within the state and producing table wine,
12 sparkling wine, or sacramental wine. Licenses may be issued and renewed for an annual fee of
13 one hundred dollars, which is in lieu of all other license fees required by chapter 35-4. The fee



1 shall be deposited in the general fund. Any person licensed pursuant to this Act shall also apply
2 for and obtain a license pursuant to chapter 10-45.

3 Section 3. A winery licensed pursuant to section 2 of this Act and located in a state that
4 affords South Dakota wineries an equal reciprocal shipping privilege, or a winery located in
5 South Dakota, may ship, for personal use and not for resale, not more than two cases of wine,
6 containing a maximum of nine liters per case, in any calendar year to any resident of South
7 Dakota age twenty-one or over. A winery licensed in South Dakota may ship, for personal use
8 and not for resale, not more than two cases of wine, containing a maximum of nine liters per
9 case, in any calendar year to any resident age twenty-one or over of any state that allows its
10 residents to receive wine sent from outside that state.

11 Section 4. The shipping container of any wine that is sent into or within this state pursuant
12 to section 2 of this Act shall be clearly labeled to indicate that the package contains alcohol and
13 may not be delivered to a minor or to a person who is visibly intoxicated. The shipper shall
14 record on the delivery record the name, address, and date of birth of the person to whom the
15 shipment is delivered from valid identification presented by the person. This section applies only
16 to shipments from states that provide substantial statutory reciprocity.

17 Section 5. No person may advertise shipments authorized under section 2 of this Act by
18 television, radio, or print media. No shipper located outside South Dakota may advertise such
19 interstate reciprocal wine shipments in South Dakota. Nothing in this Act impairs the distribution
20 of wine through distributors or importing distributors.

21 Section 6. There is hereby levied on all table and sparkling wines sold by a winery in this
22 state, an excise tax imposed at the same rates and collected and administered in the same manner
23 as the tax imposed on wine in chapter 35-5. Sacramental wines are exempt from the tax imposed
24 by this section. The excise tax on wines established in this section shall be paid to the secretary

1 of the Department of Revenue on or before the fifteenth day of the month following the month
2 in which the first sale is made in this state by a winery holding a direct shipment wine license and
3 shall be deposited in the general fund. The licensee shall file with the secretary a return in the
4 form prescribed by the secretary, and shall keep records and render reports required by the
5 secretary in rules promulgated pursuant to chapter 1-26.

6 Section 7. Every person subject to tax under this Act shall keep records and books of all
7 receipts and sales, together with invoices, bills of lading, copies of bills of sale, and other
8 pertinent papers and documents. Such books and records and other papers and documents shall,
9 at all times during business hours of the day, be subject to inspection by the secretary of revenue,
10 or duly authorized agents and employees of the secretary to determine the amount of tax due.
11 Such books and records shall be preserved for a period of three years unless the secretary of
12 revenue, in writing, authorized their destruction or disposal at an earlier date.

13 Section 8. Notwithstanding the provisions of § 35-4-47 or 35-4-60, a winery holding a direct
14 shipment wine license pursuant to this Act may sell the wine produced under the license to
15 wholesalers and retailers licensed pursuant to subdivisions 35-4-2(2), (3), (4), (5), (6), (9), (11),
16 (12), (13), and (18).

17 Section 9. The secretary may revoke the license of any person who is the holder of a direct
18 shipment wine license issued pursuant to this Act and who has failed to file a return, or who has
19 filed a return and has failed to pay the tax due the state as required by section 6 of this Act.

20 Section 10. The secretary of the Department of Revenue shall promulgate rules pursuant to
21 chapter 1-26 establishing the criteria and procedures for obtaining a direct shipment wine license
22 and procedures for collecting the excise taxes pertaining to a winery under this Act.

23 Section 11. The licensee shall register labels for each type or brand produced with the
24 secretary of the Department of Revenue, in the same manner and at the same rate as prescribed

1 for wine in chapter 39-13, before sale. If the label or brand states or implies in a false or
2 misleading manner a connection with an actual living or dead Native American leader, the
3 secretary shall reject the registration of the label.

4 Section 12. That § 10-59-1 be amended to read as follows:

5 10-59-1. The provisions of this chapter apply to any taxes or fees or persons subject to taxes
6 or fees imposed by chapters 10-39, 10-39A, 10-39B, 10-43, 10-45, 10-46, 10-46A, 10-46B,
7 10-47B, 10-52, 32-3, 32-3A, 32-5, 32-5B, 32-6B, 32-9, 32-10, and 34A-13 and §§ 22-25-48,
8 49-31-51, 50-4-13 to 50-4-17, inclusive, and the provisions of chapter 10-45B and this Act.

9 Section 13. Any person who, in violation of the provisions of this Act, sells, ships, or
10 distributes or attempts to sell, ship, or distribute wine without a license; sells or purchases, or
11 attempts to sell or purchase, an amount of wine in excess of the limits imposed by this Act;
12 intentionally mislabels any wine or wine shipment; engages in advertising practices prohibited by
13 this Act; or fails to pay or fails to file a return for any tax established in this Act is guilty of a
14 Class 1 misdemeanor.

15 Section 14. Any person who sells, ships, or delivers wine under this Act to any person who
16 is less than twenty-one years of age is guilty of a Class 1 misdemeanor. Placing or attempting to
17 place an order for wine under this Act by a person less than twenty-one years of age is deemed
18 to be an attempt by the person to purchase an alcoholic beverage and is subject to the provisions
19 of § 35-9-2. All other laws related to the sale, purchase, possession, and consumption of
20 alcoholic beverages as they pertain to persons less than twenty-one years of age apply to the
21 provisions of this Act.

22 Section 15. Nothing in this Act authorizes the sale or delivery of wine within the boundaries
23 of any government entity that has otherwise lawfully prohibited the purchase of alcoholic
24 beverages within its borders.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

771H0419

HOUSE TRANSPORTATION COMMITTEE ENGROSSED NO. **HB 1273** - 01/30/2002

Introduced by: Representative Duniphan and Senator Ham

1 FOR AN ACT ENTITLED, An Act to revise the requirements for obtaining plates and
2 certificates to park in any space reserved for the disabled.

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

4 Section 1. That § 32-5-76 be amended to read as follows:

5 32-5-76. An owner of a motor vehicle, who is a resident of this state, who has complied with
6 all the laws of this state in obtaining regular number license plates for the motor vehicle, and who
7 operates or directs the operation of the vehicle, may submit to the county treasurer an application
8 containing a physician's certificate on a form approved by the secretary, ~~which states~~ stating that
9 the applicant is so substantially disabled by a physical disability that it is impossible or causes
10 substantial hardship to walk. The secretary shall promulgate a rule, pursuant to chapter 1-26,
11 defining physical disability and disabled. The county treasurer shall procure, issue, and deliver
12 to the applicant plates with letters, numbers, or symbols, or any combination thereof, as the
13 secretary may prescribe. The plates shall be designed to readily apprise law enforcement officers
14 of the fact that the motor vehicle is owned, operated, or used in transporting a substantially
15 disabled person. No charge may be made for the issuance of the distinctive plates. The distinctive



1 plates shall be in addition to the regular number plates issued for the motor vehicle. The
2 distinctive plates shall be displayed as set forth in § 32-5-98 and the regular number plates shall
3 be kept on or in the motor vehicle. If the applicant is no longer disabled by a physical disability
4 or is deceased, the distinctive plates shall be surrendered within thirty days to the county
5 treasurer of the applicant's residence, and the treasurer shall notify the secretary who shall make
6 the necessary changes in the registration file. The regular number plates shall remain with the
7 motor vehicle to which ~~they~~ the plates were issued. Failure to surrender the distinctive license
8 plates as required by this section is a Class 2 misdemeanor. It is a Class 1 misdemeanor to submit
9 a false or fraudulent application.

10 Section 2. That § 32-5-76.1 be amended to read as follows:

11 32-5-76.1. Any person who is a resident of this state and disabled by a physical disability so
12 that it is impossible or causes substantial hardship to walk may be issued a portable serially
13 numbered certificate by the secretary which permits the person or the operator of a vehicle being
14 used in transporting the person to park without time limitation pursuant to § 32-30-11.1 and to
15 park in any space reserved for the ~~handicapped~~ disabled. The person shall submit an application
16 containing a physician's certificate on forms approved by the secretary to prove that the person
17 meets the criteria established by this section. If the secretary determines that the applicant meets
18 the criteria, the secretary shall issue a portable certificate to the applicant. The secretary shall
19 promulgate rules, pursuant to chapter 1-26, governing the application for, term of, and
20 conditions under which such certificates may be issued. If the applicant is no longer disabled by
21 a physical disability or is deceased, the portable certificate shall be surrendered to the county
22 treasurer of the applicant's residence within thirty days, and the treasurer shall notify the
23 secretary who shall make the necessary changes in the file. Failure to surrender the portable
24 certificate as required by this section is a Class 2 misdemeanor. It is a Class 1 misdemeanor to

1 submit a false or fraudulent application.

2 Section 3. That § 32-5-76.2 be amended to read as follows:

3 32-5-76.2. Any nonprofit organization, licensed hospital, retirement home, or educational
4 institution which has under its care or responsibility physically disabled persons, which transports
5 physically disabled persons, and which has complied with all laws of this state in obtaining title,
6 license plates, and registration for its motor vehicles may apply for a portable serially numbered
7 certificate which permits the operator of a vehicle transporting the disabled person to park
8 pursuant to § 32-30-11.1 ~~and to park only.~~ However, the vehicle may only park for the time
9 reasonably necessary to load or unload passengers in any space reserved for the ~~handicapped~~
10 disabled. In addition, any local government entity that owns a vehicle used to transport disabled
11 individuals may apply for the portable certificate. The application shall be made on a form
12 approved by the secretary. If the department determines that the applicant transports disabled
13 persons, the secretary shall issue and deliver a portable certificate to the applicant. The secretary
14 may promulgate rules pursuant to chapter 1-26 regarding the application for, term of, and
15 conditions under which the certificate may be issued. If the applicant no longer transports
16 physically disabled persons, ~~it~~ the applicant shall surrender the certificate to the department
17 within thirty days. Failure to surrender the portable certificate as required by this section is a
18 Class 2 misdemeanor. It is a Class 1 misdemeanor to submit a false or fraudulent application.

19 Section 4. That § 32-5-76.3 be amended to read as follows:

20 32-5-76.3. Any nursing facility licensed pursuant to the provisions of chapter 34-12 and
21 which has complied with all laws of this state in obtaining title, license plates, and registration
22 for its motor vehicles may apply for a set of distinctive plates as prescribed by § 32-5-76 ~~which~~
23 ~~permits~~ permitting the operator of a vehicle transporting any disabled person to park pursuant
24 to § 32-30-11.1. However, the vehicle may only park for the time reasonably necessary to load

1 or unload passengers in any space reserved for the disabled. The application shall be made on a
2 form approved by the secretary. If the department determines that the applicant is licensed as a
3 nursing facility, the secretary shall issue and deliver a set of distinctive plates to the applicant.
4 The secretary may promulgate rules, pursuant to chapter 1-26, regarding the application for,
5 term of, and conditions under which the distinctive plates may be issued. If the applicant no
6 longer transports physically disabled persons, the applicant shall surrender the distinctive plates
7 to the department within thirty days. Failure to surrender the distinctive license plates as required
8 by this section is a Class 2 misdemeanor.

9 Section 5. That § 32-30-11 be amended to read as follows:

10 32-30-11. Any person, other than the veteran to whom it was issued, who uses a disabled
11 veteran's license of identification issued pursuant to ~~§ 32-30-7~~ § 32-5-108 for the purpose of
12 parking an automobile as permitted by § 32-30-8, commits a ~~petty offense~~ Class 2 misdemeanor.
13 In addition, the court shall assess a civil penalty of not less than two hundred dollars nor more
14 than five hundred dollars.

15 Section 6. That § 32-30-11.1 be amended to read as follows:

16 32-30-11.1. Any physically ~~handicapped~~ disabled person, who displays special license plates
17 issued under § 32-5-76 or 32-5-108, a serially numbered certificate issued under § 32-5-76.1 or
18 32-5-76.2, or a similar license plate or certificate issued in another state on an automobile used
19 in transporting ~~him~~ that person, shall be entitled to park without limitation in areas where parking
20 is normally restricted by time factors and to park in any space reserved for the ~~handicapped~~
21 disabled. However, a municipality may, by ordinance, prohibit parking on any street or highway
22 for the purpose of creating a fire lane, or to provide for the accommodation of heavy traffic
23 during morning and afternoon rush hours, ~~and the~~ The privileges extended to such ~~handicapped~~
24 disabled persons ~~shall do~~ not apply on streets or highways where and during ~~such times as any~~

1 time parking is prohibited.

2 Section 7. That § 32-30-11.2 be amended to read as follows:

3 32-30-11.2. If the police of any municipality or any other political subdivision ~~shall find~~ finds
4 that ~~such~~ special license plates or certificates are being improperly used, ~~they~~ the police shall
5 report such violation to the Department of ~~Commerce and Regulation~~ Revenue which ~~may~~ shall
6 revoke the privilege of displaying license plates or certificates ~~so~~ that are improperly used.

7 Section 8. That § 32-30-11.3 be amended to read as follows:

8 32-30-11.3. Any person who is not physically ~~handicapped~~ disabled and who exercises the
9 privileges granted a physically ~~handicapped~~ disabled person under § 32-30-11.1 commits a
10 Class 2 misdemeanor. In addition, the court shall assess a civil penalty of not less than two
11 hundred dollars nor more than five hundred dollars.

12 Section 9. That § 32-30-11.4 be amended to read as follows:

13 32-30-11.4. The owner of any vehicle not displaying a serially numbered certificate or special
14 license plate parked or stopped in a parking space, or blocking a parking space, on public or
15 private property designated as reserved for the physically ~~handicapped~~ disabled commits a Class
16 2 misdemeanor. In addition, the court shall assess a civil penalty of not less than two hundred
17 dollars nor more than five hundred dollars.

18 Section 10. That chapter 32-30 be amended by adding thereto a NEW SECTION to read as
19 follows:

20 No owner of a vehicle may park, stop, or stand in an access aisle or lane immediately
21 adjacent to reserved parking spaces or in front of a ramp or curb-cut in such a manner that
22 blocks access to a disabled person who uses a wheelchair. A violation of this section is a Class
23 2 misdemeanor. In addition, the court shall assess a civil penalty of not less than two hundred
24 dollars nor more than five hundred dollars.

1 Section 11. That § 32-30-11.6 be amended to read as follows:

2 32-30-11.6. ~~Municipalities may~~ Each municipality shall by ordinance, designate special
3 parking spaces which shall be accessible to and usable by persons with physical disabilities. The
4 parking spaces shall be designed in accordance with the Americans With Disabilities Act as
5 amended on January 1, 2002.

6 Section 12. That chapter 32-30 be amended by adding thereto a NEW SECTION to read as
7 follows:

8 Each sign designating a parking space for the physically disabled shall state the penalties for
9 illegal use of the parking space. This section only applies to a new sign or a sign that replaces an
10 existing sign after July 1, 2002.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

656H0700

HOUSE TRANSPORTATION COMMITTEE ENGROSSED NO. **HB 1291** - 02/06/2002

Introduced by: Representatives Brown (Richard), Bradford, Elliott, and Hennies (Don) and
Senators Diedtrich (Elmer) and Brown (Arnold)

1 FOR AN ACT ENTITLED, An Act to revise the requirements for obtaining a specialty license
2 plate organizational decal and to authorize the issuance of certain license plates without
3 county identifiers.

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

5 Section 1. That § 32-5-137 be amended to read as follows:

6 32-5-137. To qualify for an organizational decal, an organization shall be a nonprofit
7 corporation, or a group of nonprofit corporations with a common purpose, on file with the
8 secretary of state's office and shall have a minimum of two hundred members and shall meet the
9 following requirements:

10 (1) The primary activity or interest of the organization or group of organizations serves
11 the community, contributes to the welfare of others, and is not offensive or
12 discriminatory in its purpose, nature, activity, or name;

13 (2) The name and purpose of the organization or group of organizations does not
14 promote any specific product or brand name that is provided for sale; and



1 (3) The ~~purpose~~ decal of the organization or group of organizations does not promote a
2 specific religion, faith, or anti-religious belief.

3 Section 2. That chapter 32-5 be amended by adding thereto a NEW SECTION to read as
4 follows:

5 Any applicant for a set of license plates for a noncommercial motor vehicle may receive a set
6 of license plates that do not give any indication on the license plates as to the county in which
7 the license plates were issued by a number appearing on the plates or by any other means. To
8 receive such a set of license plates, the applicant shall request the plates at the time of registering
9 the noncommercial motor vehicle. The applicant shall pay a ten dollar fee in addition to the
10 schedule of license fees and compensation for a noncommercial motor vehicle pursuant to
11 chapter 32-5.

12 Section 3. Section 2 is effective on January 1, 2003.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

708H0708

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1294** - 02/05/2002

Introduced by: Representative Konold

1 FOR AN ACT ENTITLED, An Act to revise and supplement certain powers of the South
2 Dakota Building Authority and to declare an emergency.

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

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

6 In addition to all other powers established pursuant to chapter 5-12, the building authority
7 may invest its funds or the funds under its control or direction in permitted investments as
8 defined in subdivision 5-12-48(10).

9 Section 2. That § 5-12-50 be amended to read as follows:

10 5-12-50. The authority may establish by resolution a special purpose corporation which shall
11 be body corporate and politic and instrumentality of, but having a legal existence independent
12 and separate from, the State of South Dakota and the authority. The corporation shall be
13 established for the express limited public purposes set forth in §§ 5-12-48 to 5-12-60, inclusive,
14 and no part of the net earnings of the corporation shall inure to any private individual.

15 The corporation shall be governed by a board consisting of the members of the authority and



1 two additional persons appointed by the Governor, which two additional members shall be
2 independent from the state. The resolution establishing the corporation shall serve as the charter
3 of the corporation and may be amended from time to time by the authority, but the resolution
4 shall at all times provide that the power and the authority of the corporation shall be subject to
5 the terms, conditions, and limitations of §§ 5-12-48 to 5-12-60, inclusive, and any applicable
6 covenants or agreements of the corporation in any indenture or other agreement relating to any
7 then outstanding bonds. The corporation may enter into contracts regarding any matter
8 connected with any corporate purpose within the objects and purposes of §§ 5-12-48 to 5-12-60,
9 inclusive.

10 The authority and corporation may delegate by resolution to one or more officers or
11 employees of the authority or corporation such powers and duties as it may deem proper.

12 The corporation may issue bonds and secure repayment of the bonds with amounts payable
13 out of tobacco settlement revenues or any other property or funds of the corporation. Bonds
14 issued by the corporation shall be accompanied by an opinion of nationally recognized bond
15 counsel substantially to the effect that ~~interest on the bonds is excludable from the gross income~~
16 ~~of the bondholder for federal income tax purposes~~ the bonds are valid and legal obligations of
17 the corporation.

18 The corporation may pledge as security for any bonds any rights under the master settlement
19 agreement held by the corporation, including the right to receive or collect tobacco settlement
20 revenues, moneys, or other funds deposited with, payable to or held by or on behalf of the
21 corporation, and the proceeds of the foregoing and any proceeds of bonds. Any right of the state
22 to the residual interest in tobacco settlement revenues shall be, in all respects, junior and
23 subordinate to any such pledge if and to the extent so provided by the terms of any instrument
24 or agreement described in § 5-12-49 and signed on behalf of the state by the Governor. Any such

1 pledge made by the corporation shall be valid and binding from the time the pledge is made. The
2 property, revenues, moneys, and other funds so pledged and thereafter held or received by or on
3 behalf of the corporation shall immediately be subject to the lien of the pledge without any
4 physical delivery thereof or further act; and, subject only to the provisions of prior pledges or
5 agreements of the corporation, the lien of the pledge shall be valid and binding as against the
6 state and all parties having claims of any kind in tort, contract, or otherwise against the
7 corporation irrespective of whether such parties have notice thereof. No ordinance, resolution,
8 trust agreement, or other instrument by which such pledge is created need be filed or recorded
9 except in the records of the corporation.

10 In connection with the issuance of bonds or, at any time with respect to bonds, the
11 corporation may enter into arrangements to provide additional security and liquidity for bonds.
12 The arrangements may include, without limitation, bond insurance, letters of credit, and lines of
13 credit by which the corporation may borrow funds to pay or redeem its bonds and purchase or
14 remarketing arrangements for assuring the ability of owners of the bonds to sell or have
15 redeemed their bonds. The corporation may enter into contracts and may agree to pay fees to
16 persons providing the arrangements, including from bond proceeds.

17 The resolution authorizing the issuance of bonds or the indenture or other agreement
18 approved by the resolution may provide that interest rates may vary from time to time depending
19 upon criteria established by the corporation, which may include, without limitation, a variation
20 in interest rates as may be necessary to cause bonds to be remarketable from time to time at a
21 price equal to their principal amount, and may provide for appointment of a national banking
22 association, bank, trust company, investment banking firm, or other financial institution to serve
23 as a remarketing agent in that connection. The indenture or other agreement with respect to
24 bonds may provide that alternative interest rates or provisions will apply during such times as

1 bonds are held by a person providing a letter of credit or other credit enhancement arrangement
2 for bonds.

3 In connection with bonds under §§ 5-12-48 to 5-12-60, inclusive, or the investment of
4 proceeds, bonds, or other funds of the corporation, the corporation may enter into contracts that
5 it determines necessary or appropriate to permit it to manage payment or interest rate risk. These
6 contracts may include, but are not limited to, interest rate exchange agreements; contracts
7 providing for payment or receipt of funds based on levels of or changes in interest rates;
8 contracts to exchange cash flows or series of payments; and contracts incorporating interest rate
9 caps, collars, floors, or locks.

10 The corporation may not file a voluntary petition under or be or become a debtor or bankrupt
11 under the federal bankruptcy code or any other federal or state bankruptcy, insolvency, or
12 moratorium law or statute as may, from time to time, be in effect and neither any public officer
13 nor any organization, entity, or other person shall authorize the corporation to be or become a
14 debtor or bankrupt under the federal bankruptcy code or any other federal or state bankruptcy,
15 insolvency, or moratorium law or statute, as may, from time to time be in effect.

16 The corporation may not guarantee the debts of another.

17 The corporation may not be required to file any reports with the state other than those
18 required to be filed with the Legislature by authorities which issue bonds.

19 Except for debts incurred directly by the corporation, no indebtedness, bonds, or obligation,
20 issued, incurred, or created by the State of South Dakota or any state agency or instrumentality
21 may be or become a lien, charge, or liability against the corporation or the property or funds of
22 the corporation.

23 Section 3. Whereas, this Act is necessary for the support of the state government and its
24 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full

1 force and effect from and after its passage and approval.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

400H0716 **HOUSE APPROPRIATIONS COMMITTEE ENGROSSED**
NO. HB 1296 - 02/06/2002

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

1 FOR AN ACT ENTITLED, An Act to make an appropriation to expand the nursing programs
2 at South Dakota's public universities.

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

4 Section 1. There is hereby appropriated from the health care trust fund established in Article
5 XII, section 5, of the South Dakota Constitution, the sum of one million one hundred twenty-
6 two thousand four hundred forty-seven dollars (\$1,122,447), or so much thereof as may be
7 necessary, to the Board of Regents for the purposes of expanding nursing programs.

8 Section 2. The executive director of the Board of Regents shall approve vouchers and the
9 state auditor shall draw warrants to pay expenditures authorized by this Act.



State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

400H0724

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1302** - 02/05/2002

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

Introduced by: The Committee on State Affairs at the request of the Governor

1 FOR AN ACT ENTITLED, An Act to provide for the establishment of standard guidelines to
2 be used regarding child custody and visitation.

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

4 Section 1. For the purposes of this Act, the term, standard guidelines, means the child
5 visitation guidelines established by court rules promulgated by the South Dakota Supreme Court
6 pursuant to section 2 of this Act.

7 Section 2. The South Dakota Supreme Court shall promulgate court rules establishing
8 standard guidelines to be used statewide for child visitation in divorce or separate maintenance
9 actions or any other custody action or proceeding. The standard guidelines shall provide a
10 framework for child visitation including frequency and time for child visitation; hours or days of
11 visitation; definitions for weekends, holidays, birthdays, and other special occasions; and time
12 periods for summer visitations. In establishing the standard guidelines, the court may consider
13 varying ages and circumstances of children and treat varying ages and circumstances differently.

14 Section 3. Upon the filing of a summons and complaint for divorce or separate maintenance



1 or any other custody action or proceeding, the plaintiff shall also file and serve upon the
2 defendant a copy of the standard guidelines. Any minor child of the marriage shall remain in the
3 custody of the parent who has been the primary caregiver for the minor child for the majority of
4 time in the thirty days preceding the filing of the summons and complaint, unless the parties agree
5 otherwise. The standard guidelines shall apply and continue in effect, unless the parties agree,
6 or the court orders otherwise. Imposition of the standard guidelines creates no presumption as
7 to who shall be awarded custody at any hearing.

8 Section 4. Section 4. Any agreement by the parties for visitation other than the standard
9 guidelines shall be in writing, signed by both parties and filed with the court.

10 Section 5. If either party objects to the initial custody arrangement in section 3 of this Act
11 or the standard guidelines, the court shall order a hearing which shall be held not later than thirty
12 days after the date of the objection. The court shall issue its temporary custody and visitation
13 order after considering the best interests of the child consistent with the provisions of § 25-4-45.

14 Section 6. The standard guidelines are subject to any provision established by a South Dakota
15 state court in the following: a temporary or permanent domestic protection order, an order
16 arising out of an abuse or neglect proceeding, a bond condition arising out of a criminal case, and
17 an order in any other proceeding affecting child custody or support.

18 Section 7. The court may order either party to pay attorney fees and costs in an action filed
19 under this Act in accordance with § 15-17-38 or any other applicable statute.

20 Section 8. The parents are responsible for payment of child support in accordance with § 25-
21 7-6.1.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

400H0727

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1303** - 02/05/2002

Introduced by: The Committee on State Affairs at the request of the Governor

1 FOR AN ACT ENTITLED, An Act to revise the Governor's emergency powers in the event of
2 a terrorist or bioterrorist attack.

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

4 Section 1. That § 33-15-8 be amended to read as follows:

5 33-15-8. In the event of disaster, war, act of terrorism as defined in state law, or emergency
6 that is beyond local government capability, the Governor:

- 7 (1) May assume direct operational control over all or any part of the emergency
8 management functions within the state which may affect all or any portion of the state;
- 9 (2) May declare an emergency or disaster to exist in the stricken area and employ
10 emergency management to assist local authorities to affect relief and restoration;
- 11 (3) May call upon and use any facilities ~~and~~ equipment, other nonmedical supplies, and
12 resources available from any source in order to carry out the purposes of this chapter
13 by contributing to the expense incurred in providing relief in such amounts as he shall
14 determine;
- 15 (4) May suspend the provisions of any rules of any state agency, if strict compliance with



1 the provisions of ~~such~~ the rule would in any way prevent, hinder, or delay necessary
2 action in managing a disaster, war, act of terrorism, or emergency, including fire,
3 flood, earthquake, severe high and low temperatures, tornado storm, wave action, oil
4 spill, or other water or air contamination, epidemic, blight, drought, infestation,
5 explosion, riot, or hostile military or paramilitary action, which is determined by the
6 Governor to require state or state and federal assistance or actions to supplement the
7 recovery efforts of local governments in alleviating the damage, loss, hardship, or
8 suffering caused thereby; ~~and~~

9 (5) May control the ingress and egress in a designated disaster or emergency area, the
10 movement of vehicles upon highways within the area, the movement of persons within
11 the area, and the occupancy of premises within the area;

12 (6) May procure, acquire, store, distribute, and dispense any pharmaceutical agents or
13 medical supplies located within the state as may be reasonable and necessary to
14 respond to the disaster, emergency, or act of terrorism;

15 (7) May appoint and prescribe the duties of such out-of-state health care providers as may
16 be reasonable and necessary to respond to the disaster, emergency, or act of
17 terrorism;

18 (8) May provide for the examination and safe disposal of any dead body as may be
19 reasonable and necessary to respond to the disaster, emergency, or act of terrorism;
20 and

21 (9) May provide for the protection, construction or reconstruction, repair, and
22 maintenance of public or private transportation facilities.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

400H0728

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1304** - 02/05/2002

Introduced by: The Committee on State Affairs at the request of the Governor

1 FOR AN ACT ENTITLED, An Act to revise the emergency powers of the Department of
2 Health.

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

4 Section 1. That chapter 34-22 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 For the purposes of this Act, a public health emergency is an occurrence or imminent threat
7 of an illness, health condition, or widespread exposure to an infectious or toxic agent that poses
8 a significant risk of substantial harm to the affected population.

9 Section 2. That chapter 34-22 be amended by adding thereto a NEW SECTION to read as
10 follows:

11 The secretary of health, with the consent of the Governor, may declare a public health
12 emergency as defined by section 1 of this Act. In declaring a public health emergency, the
13 secretary shall issue an order that specifies:

- 14 (1) The nature of the public health emergency;
- 15 (2) The geographic area subject to the declaration;



1 (3) The conditions that have brought about the public health emergency; and

2 (4) The expected duration of the state of public health emergency, if less than thirty days.

3 Section 3. That chapter 34-22 be amended by adding thereto a NEW SECTION to read as
4 follows:

5 The department shall have primary jurisdiction, responsibility, and authority for responding
6 to a public health emergency declared pursuant to section 2 of this Act including:

7 (1) Planning and executing public health emergency assessment, mitigation, preparedness,
8 and response;

9 (2) Coordinating public health emergency response between state and local authorities;

10 (3) Collaborating with relevant federal, state, tribal, and local authorities; and

11 (4) Organizing public information activities regarding public health emergency response
12 operations.

13 The Department of Health may promulgate rules, pursuant to chapter 1-26, to implement the
14 provisions of this section.

15 Section 4. That chapter 34-22 be amended by adding thereto a NEW SECTION to read as
16 follows:

17 Any public health emergency declared pursuant to section 2 of this Act shall be terminated
18 automatically after thirty days unless renewed by the secretary under the same standards and
19 procedures set forth in section 2 of this Act.

20 Section 5. That § 34-3-26 be amended to read as follows:

21 34-3-26. The powers and duties of the board of health in a full-time county or district health
22 department shall be the same as those specified for county boards of health and the
23 superintendents thereof as provided for by §§ ~~34-2-4 to 34-2-10~~, inclusive chapter 34-16 and
24 sections 8 and 9 of this Act.

1 Section 6. That chapter 34-16 be amended by adding thereto a NEW SECTION to read as
2 follows:

3 Each county may establish a county board of health which shall be composed of the state's
4 attorney of the county, who shall be president of the board; a physician, a physician assistant, or
5 nurse practitioner who practices in the county, appointed by the Department of Health, who shall
6 serve as superintendent of the board of health; and one other resident of the county.

7 Section 7. That chapter 34-16 be amended by adding thereto a NEW SECTION to read as
8 follows:

9 The county board of health shall meet at the county seat at such times as the superintendent
10 may designate. The president of the county board of health shall preside at the meetings.

11 Section 8. That chapter 34-16 be amended by adding thereto a NEW SECTION to read as
12 follows:

13 The superintendent of the county board of health shall have charge of and superintend,
14 subject to the approval of the board, all the matters and things specified in this chapter. In case
15 of immediate danger to the health of persons, the superintendent may act without consultation
16 with the county board, for the prevention of such danger, and shall immediately report the action
17 to the president of the county board and to the secretary of health.

18 Section 9. That chapter 34-16 be amended by adding thereto a NEW SECTION to read as
19 follows:

20 The county board of health, within the territorial limits of its county not included in any first
21 or second class municipality having its own board of health, may remove or cause to be removed
22 any dead, decaying, or putrid body, or any decayed, putrid, or other substance that may endanger
23 the health of persons or domestic animals.

24 Section 10. That § 34-2-1 be repealed.

1 ~~34-2-1. There shall be a county board of health which shall be composed of the state's~~
2 ~~attorney of the county, who shall be president thereof, and two licensed physicians, residents of~~
3 ~~the county, appointed by the Department of Health, one of whom shall be named superintendent~~
4 ~~and the other vice-president of such county board, and whose term of office shall be for two~~
5 ~~years. In counties where there are no resident physicians, the Department of Health may provide~~
6 ~~for such county boards under such rules and regulations as it may deem proper.~~

7 Section 11. That § 34-2-2 be repealed.

8 ~~34-2-2. Should a vacancy occur in any county board of health from any cause other than the~~
9 ~~expiration of the time for which a member had been appointed, the secretary of health shall, upon~~
10 ~~proper notification of such vacancy, proceed to appoint a proper person to fill the vacancy.~~

11 Section 12. That § 34-2-3 be repealed.

12 ~~34-2-3. The county board of health shall meet at the county seat at such times as the~~
13 ~~superintendent may designate, notice of the time and place of meeting to be given by him to the~~
14 ~~other members of the board at least five days prior to the meeting. The president of the county~~
15 ~~board of health shall preside at the meetings thereof.~~

16 Section 13. That § 34-2-4 be repealed.

17 ~~34-2-4. The superintendent of the county board of health shall be ex officio secretary of the~~
18 ~~board of health of his county and shall keep a record of all the proceedings of the board and of~~
19 ~~his official acts and shall at the end of every month make a full report in writing to the secretary~~
20 ~~of health of the proceedings of the county board and of his official acts, and of the condition of~~
21 ~~the public health, and whenever any contagious or infectious disease occurs in his county shall~~
22 ~~immediately report the same to the secretary of health.~~

23 Section 14. That § 34-2-5 be repealed.

24 ~~34-2-5. The superintendent of the county board of health shall have charge of and~~

1 ~~superintend, subject to the approval of the board of which he is a member and the supervisory~~
2 ~~control of the Department of Health, all the matters and things specified in this chapter and, in~~
3 ~~case of immediate danger to the health of persons, he may act as in his judgment he may deem~~
4 ~~proper without consultation with the county board, for the prevention of such danger, and shall~~
5 ~~immediately report such action to the president of the county board and to the secretary of~~
6 ~~health.~~

7 Section 15. That § 34-2-6 be repealed.

8 ~~— 34-2-6. Subject to the supervising control of the Department of Health, the county board of~~
9 ~~health, within the territorial limits of its county not included in any first or second class~~
10 ~~municipality having its own board of health, shall have power to enforce any and all needful rules~~
11 ~~and regulations made by the Department of Health for the prevention and cure, and to prevent~~
12 ~~the spread of contagious diseases.~~

13 Section 16. That § 34-2-7 be repealed.

14 ~~— 34-2-7. Subject to the supervising control of the Department of Health, the county board of~~
15 ~~health, within the territorial limits of its county not included in any first or second class~~
16 ~~municipality having its own board of health, shall have power to establish quarantine and isolate~~
17 ~~any person afflicted with a contagious or infectious disease.~~

18 Section 17. That § 34-2-8 be repealed.

19 ~~— 34-2-8. Subject to the supervising control of the Department of Health, the county board of~~
20 ~~health, within the territorial limits of its county not included in any first or second class~~
21 ~~municipality having its own board of health, shall have power to appoint all duly licensed~~
22 ~~physicians within the county deputies with power to quarantine any and all cases of infectious,~~
23 ~~contagious, or communicable diseases, subject to quarantine pursuant to the rules and~~
24 ~~regulations of the Department of Health. For all services rendered in quarantining, such deputies~~

1 shall be entitled to the sum of one dollar for each premise so quarantined. The county board shall
2 also have power to delegate to any person or physician within the county authority to release any
3 quarantine, under the supervision of such county board, to fumigate premises, and to do any and
4 all other things that may be necessary to protect the health of the public.

5 Section 18. That § 34-2-9 be repealed.

6 ~~—34-2-9. Subject to the supervising control of the Department of Health, the county board of~~
7 ~~health, within the territorial limits of its county not included in any first or second class~~
8 ~~municipality having its own board of health, shall have power to remove or cause to be removed~~
9 ~~any dead, decaying, or putrid body, or any decayed, putrid, or other substance that may endanger~~
10 ~~the health of persons or domestic animals.~~

11 Section 19. That § 34-2-10 be repealed.

12 ~~—34-2-10. Subject to the supervising control of the Department of Health, the county board~~
13 ~~of health, within the territorial limits of its county not included in any first or second class~~
14 ~~municipality having its own board of health, in addition to the powers granted by §§ 34-2-6 to~~
15 ~~34-2-9, inclusive, shall have original power to inquire into sanitary conditions of schoolhouses~~
16 ~~within the county, and upon complaint and investigation shall have power to abate any unsanitary~~
17 ~~conditions that may be found to exist. When upon investigation such county board of health shall~~
18 ~~find any schoolhouse in such an unsanitary condition that it is detrimental to the health of the~~
19 ~~children attending school therein, it shall immediately summon the school board of any such~~
20 ~~district to a hearing thereon and require the school board to abate the condition complained of.~~
21 ~~The order so made shall be in writing and a copy of such order placed on file in the office of the~~
22 ~~business manager of such board. Any order so made shall be enforceable in the same manner as~~
23 ~~are other orders made by such board with the same rights of appeal to the circuit court.~~

24 Section 20. That § 34-2-11 be repealed.

1 ~~— 34-2-11. Any person who shall violate any of the provisions of this chapter, or any of the~~
2 ~~rules and regulations made by the Department of Health to carry out the provisions thereof, or~~
3 ~~who shall willfully oppose or obstruct any health officer in performing his duty is guilty of a Class~~
4 ~~I misdemeanor.~~

5 Section 21. That § 34-2-12 be repealed.

6 ~~— 34-2-12. The president of the county board of health shall receive no compensation except~~
7 ~~ten cents for every mile actually and necessarily traveled in the performance of his duties as a~~
8 ~~member of such board.~~

9 Section 22. That § 34-2-13 be repealed.

10 ~~— 34-2-13. The superintendent of the county board of health shall receive ten cents for every~~
11 ~~mile actually and necessarily traveled by the nearest route in the performance of his duties when~~
12 ~~not the attending physician, which mileage shall be in lieu of all compensation for traveling~~
13 ~~expenses; the superintendent or the vice-president, if he performs the duties of the~~
14 ~~superintendent, shall receive such other sums as the board of county commissioners may allow.~~

15 Section 23. That § 34-2-14 be repealed.

16 ~~— 34-2-14. For each investigation, visit, or examination necessarily made under the rules of the~~
17 ~~Department of Health, when no investigation, visit, or examination has been made by any other~~
18 ~~member of the county board of health or any deputy appointed under this chapter, the~~
19 ~~superintendent of the county board of health or the vice-president, if he performs the duties of~~
20 ~~the superintendent, shall receive five dollars.~~

21 Section 24. That § 34-2-15 be repealed.

22 ~~— 34-2-15. The superintendent of the county board of health shall also receive the sum of five~~
23 ~~dollars per month for making the daily reports and keeping the records of his office as required~~
24 ~~by the rules and regulations of the Department of Health, and he or the vice-president, if he~~

1 performs the duties of the superintendent, shall further receive such other sum or sums as he may
2 pay or become liable to pay for medicine, chemicals, drugs, or appliances in carrying out and
3 performing the various duties imposed upon him by law which, together with other expenses,
4 shall be audited by the board of county commissioners and paid as other county expenses.

5 Section 25. That § 34-2-16 be repealed.

6 ~~—34-2-16. In counties where the total annual fees and mileage drawn by the superintendent of~~
7 ~~the county board of health exceeds the sum of two thousand dollars, the board of county~~
8 ~~commissioners of such counties may in their discretion pay such superintendent a monthly wage~~
9 ~~or salary, in amount to be fixed and determined by said board of commissioners and in such case~~
10 ~~such wage or salary shall be paid to and received by said superintendent in lieu of all mileage and~~
11 ~~fees as provided in this chapter.~~

12 Section 26. That § 34-16-3 be repealed.

13 ~~—34-16-3. All county boards of health and health officers shall make such investigations and~~
14 ~~reports and obey such directions concerning communicable diseases as the Department of Health~~
15 ~~may require or give, and under the general supervision of the department they shall cause all laws~~
16 ~~and regulations relating to public health and sanitary matters to be obeyed and enforced.~~

17 Section 27. That § 34-16-4 be repealed.

18 ~~—34-16-4. Every county board of health member or officer refusing or neglecting to perform~~
19 ~~any duty imposed upon him by or pursuant to this chapter or by any statute, ordinance, bylaw,~~
20 ~~or rule or regulation relating to public health and sanitary measures shall be punished according~~
21 ~~to the provisions of § 34-2-11.~~

22 Section 28. That § 34-16-6 be repealed.

23 ~~—34-16-6. Whenever the township board of health thinks it necessary for the preservation of~~
24 ~~the health of its inhabitants to enter any building, car, truck, automobile, or vessel in the~~

1 ~~township for the purpose of examining into and destroying, removing, or preventing any~~
2 ~~nuisance, source of filth, or cause of sickness, and shall be refused such entry, any member of the~~
3 ~~board may make complaint under oath to a judge of the circuit court for the county, stating the~~
4 ~~facts in the case so far as he has knowledge thereof.~~

5 Section 29. That § 34-16-7 be repealed.

6 ~~—34-16-7. The circuit court judge to whom complaint is made pursuant to § 34-16-6 shall~~
7 ~~thereupon issue a warrant directed to the sheriff or any constable of the county, commanding him~~
8 ~~to take sufficient aid and, accompanied by two or more of the board of health, between the hours~~
9 ~~of sunrise and sunset, to repair to the place where such nuisance, source of filth, or cause of~~
10 ~~sickness complained of may be and to destroy, remove, or prevent the same under the direction~~
11 ~~of the members of such board of health.~~

12 Section 30. That § 34-16-8 be repealed.

13 ~~—34-16-8. Whenever any nuisance, source of filth, or cause of sickness is found on private~~
14 ~~property, the township board of health shall order the owner or occupant thereof at his own~~
15 ~~expense to remove the same within twenty-four hours; and if the owner or occupant thereof~~
16 ~~neglects so to do he shall forfeit a sum not exceeding fifty dollars, to be recovered in the name~~
17 ~~of and for the use of the township.~~

18 Section 31. That § 34-16-9 be repealed.

19 ~~—34-16-9. Whenever an owner or occupant of private property shall not comply with an order~~
20 ~~of the board of health under § 34-16-8, the board may cause the nuisance, source of filth, or~~
21 ~~cause of sickness to be removed, and all expenses incurred thereby shall be paid by the owner~~
22 ~~or occupant or by such other person as has caused or permitted the same.~~

23 Section 32. That § 34-16-10 be repealed.

24 ~~—34-16-10. Whenever it shall be brought to the knowledge of any member of the board of~~

1 ~~township supervisors that the dead, putrid, or decaying body of any animal is unburied in his~~
2 ~~township and is or may become offensive or endangers or may endanger the health of persons~~
3 ~~or domestic animals, such supervisor shall forthwith notify the person who was at the time of its~~
4 ~~death the owner of such animal and also the person who was at such time in charge thereof, if~~
5 ~~known to him and residing in the township, to burn or bury such body or otherwise dispose of~~
6 ~~such body in the manner provided by law within a reasonable time to be fixed by the said~~
7 ~~supervisor.~~

8 Section 33. That § 34-16-11 be repealed.

9 ~~— 34-16-11. If the owner or person in charge shall fail, neglect, or refuse to burn or bury or~~
10 ~~otherwise dispose of such body in accordance with the laws, rules, and regulations provided by~~
11 ~~§§ 34-16-10 to 34-16-13, inclusive, within the time required by such supervisor, or if such~~
12 ~~persons are unknown to the said supervisor or do not reside in the township, the said supervisor~~
13 ~~shall at once cause the same to be buried or burned and the expense of the same shall be paid by~~
14 ~~the township where such animal is found dead.~~

15 Section 34. That § 34-16-12 be repealed.

16 ~~— 34-16-12. The burning or burial provided for in §§ 34-16-10 and 34-16-11 shall be done~~
17 ~~effectively and thoroughly so that the body shall not emit any stench or be offensive or in any~~
18 ~~manner endanger the health of persons or domestic animals.~~

19 Section 35. That § 34-16-13 be repealed.

20 ~~— 34-16-13. The owner of such animal and the person in charge thereof shall at once become~~
21 ~~liable to the township for the costs and expenses of burning or burial and notice pursuant to~~
22 ~~§ 34-16-11, and the same may be recovered in an action to be instituted against both or either~~
23 ~~of such persons.~~

24 Section 36. That § 34-22-3 be repealed.

1 ~~— 34-22-3. When a disease dangerous to the public health breaks out in any township the~~
2 ~~township board of health shall immediately provide such hospital or place of reception for the~~
3 ~~sick and infected as is judged best for their accommodation and the safety of the inhabitants;~~
4 ~~which shall be subject to the regulations of the board; and the board may cause any sick or~~
5 ~~infected person to be removed thereto, unless his condition will not admit of such removal~~
6 ~~without danger to his health, in which case the house or place where he remains shall be~~
7 ~~considered as a hospital and with all its inmates subject to the regulations of the board.~~

8 Section 37. That § 34-22-4 be repealed.

9 ~~— 34-22-4. When any person coming from abroad, or residing in any civil township in this state,~~
10 ~~is infected or has lately been infected with smallpox or other contagious or infectious disease~~
11 ~~dangerous to the public health, the board of health of the township where such sick or infected~~
12 ~~person is may immediately cause such person to be removed to a separate house, if it can be~~
13 ~~done without danger to his health, and shall provide for such person, nurses, medical attendance,~~
14 ~~and other necessities which shall be a charge in favor of such township against the person so~~
15 ~~provided for, his parents or guardian, if able to pay the same, otherwise against the county to~~
16 ~~which he belongs, or the state, if such person be a nonresident of the state.~~

17 ~~— If such infected person cannot be removed without danger to his health, the board shall make~~
18 ~~provision as directed in the preceding paragraph for such person in the house where he may be,~~
19 ~~and in such case it may cause the persons in the neighborhood to be removed, and may take such~~
20 ~~other measures as it may deem necessary for the safety of the inhabitants.~~

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

400H0730

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1305** - 02/05/2002

Introduced by: The Committee on State Affairs at the request of the Governor

1 FOR AN ACT ENTITLED, An Act to define terrorism, to create the crime of terrorism, and to
2 provide a penalty therefor.

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

4 Section 1. That chapter 22-8 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Any person who commits a crime of violence as defined by subdivision 22-1-2(9) or an act
7 dangerous to human life including any use of chemical, biological, or radioactive material, or any
8 explosive or destructive device with the intent to do any of the following:

- 9 (1) Intimidate or coerce a civilian population;
- 10 (2) Influence the policy or conduct of any government or nation;
- 11 (3) Affect the conduct of any government or nation by assassination or kidnapping; or
- 12 (4) Substantially impair or interrupt public communications, public transportation,
13 common carriers, public utilities, or other public services;

14 is guilty of an act of terrorism. A violation of this section is a Class A felony.



State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

400H0219

SENATE ENGROSSED NO. **SB 45** - 01/23/2002

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

Introduced by: The Committee on State Affairs at the request of the Department of Health

1 FOR AN ACT ENTITLED, An Act to revise certain provisions related to the practice of
2 medicine or osteopathy in South Dakota while holding a license in another state and while
3 located outside of the state.

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

5 Section 1. That § 36-4-19 be amended to read as follows:

6 36-4-19. The Board of Medical and Osteopathic Examiners may, without examination, issue
7 a license to any applicant holding a currently valid license or certificate issued to the applicant
8 by the examining board of the District of Columbia, any state or territory of the United States,
9 the National Board of Medical Examiners, the National Board of Osteopathic Physicians and
10 Surgeons, or any province of Canada, ~~from which the license was obtained by a written~~
11 ~~examination given by the board~~, if the legal requirements of the examining board at the time it
12 issued the license or certificate were not less than those of this state at the time the license is
13 presented for registration.

14 However, the board may require the applicant to ~~take~~ successfully pass either an oral or
15 written examination and personally appear before the board, a member of the board, or its staff.



1 Each applicant applying under the provisions of this chapter shall pay to the secretary of the
2 board a license fee not to exceed two hundred dollars.

3 Section 2. That § 36-4-41 be amended to read as follows:

4 36-4-41. Any nonresident physician or osteopath who, while located outside this state,
5 provides diagnostic or treatment services through electronic means to a ~~person~~ patient located
6 in this state under a contract with a health care provider licensed under Title 36, a clinic located
7 in this state that provides health services, a health maintenance organization, a preferred provider
8 organization, or a health care facility licensed under chapter 34-12, is engaged in the practice of
9 medicine or osteopathy in this state. ~~No nonresident physician or osteopath who, while located~~
10 ~~outside this state, consults on an irregular basis with a licensee under this chapter who is located~~
11 ~~in this state, is engaged in the practice of medicine or osteopathy in this state. Consultation~~
12 between a nonresident physician or osteopath and a licensee under this chapter is governed by
13 § 36-2-9.

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

400H0349

HOUSE COMMERCE COMMITTEE ENGROSSED NO.

SB 50 - 02/05/2002

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

1 FOR AN ACT ENTITLED, An Act to regulate the practice of accountancy.

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

3 Section 1. That sections 36-20A-1 to 36-20A-36, inclusive, be repealed.

4 Section 2. That chapter 36-20A be amended by adding thereto a NEW SECTION to read
5 as follows:

6 Terms as used in this chapter mean:

7 (1) "Board," the South Dakota Board of Accountancy established pursuant to this chapter
8 or its predecessor;

9 (2) "Certificate," a certificate as a certified public accountant issued pursuant to this
10 chapter or corresponding provisions of prior law, or a corresponding certificate as
11 certified public accountant issued after examination under the law of any other state;

12 (3) "Client," a person or entity that agrees with a licensee to receive any professional
13 service other than an employer-employee relationship;

14 (4) "CPA firm" and "PA firm," a sole proprietorship, a corporation, a partnership, or any



1 other form of organization permitted by law issued a permit under this chapter;

2 (5) "Compilation," providing a service to be performed in accordance with Statements on
3 Standards for Accounting and Review Services (SSARS) that is presenting in the
4 form of financial statements, information that is the representation of management
5 (owners) without undertaking to express any assurance on the statements;

6 (6) "Domestic," referring to a jurisdiction of a state;

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

8 (8) "License," a certificate issued pursuant to this chapter, a permit issued pursuant to this
9 chapter, or a registration pursuant to this chapter; or in each case, a certificate,
10 license, or permit issued under corresponding provisions of prior law;

11 (9) "Licensee," the holder of a certificate issued pursuant to this chapter or of a license
12 issued under prior law, or of a permit issued pursuant to this chapter; or in each case,
13 a certificate, license, or permit issued under corresponding provisions of prior law;

14 (10) "Manager," manager of a limited liability company;

15 (11) "Member," a member of a limited liability company;

16 (12) "Peer review," a study, appraisal, or review of one or more aspects of the professional
17 work of a certificate holder or CPA firm that performs attest or compilation services,
18 by a qualified person or persons who hold certificates and who are not affiliated with
19 the certificate holder or CPA firm being reviewed;

20 (13) "Permit," a permit to practice public accountancy issued to a firm pursuant to this
21 chapter or corresponding provisions of prior law or under corresponding provisions
22 of the laws of other states;

23 (14) "Professional," arising out of or related to the specialized knowledge or skills
24 associated with CPAs or PAs;

- 1 (15) "Public accountant," a person holding a public accountant license issued pursuant to
2 provisions of prior law;
- 3 (16) "State," any state of the United States, the District of Columbia, Puerto Rico, the U.S.
4 Virgin Islands, and Guam;
- 5 (17) "Substantial equivalency," a determination by the board or its designee that the
6 education, examination, and experience requirements contained in the statutes and
7 administrative rules of another jurisdiction are comparable to, or exceed the
8 education, examination, and experience requirements contained in this chapter or that
9 an individual CPA's education, examination, and experience qualifications are
10 comparable to or exceed the education, examination, and experience requirements
11 contained in this chapter.

12 Section 3. That chapter 36-20A be amended by adding thereto a NEW SECTION to read
13 as follows:

14 For the purposes of this chapter, attest means providing the following financial statement
15 services:

- 16 (1) Any audit or other engagement to be performed in accordance with the Statements
17 on Auditing Standards (SAS);
- 18 (2) Any review of a financial statement to be performed in accordance with the
19 Statements on Standards for Accounting and Review Services (SSARS);
- 20 (3) Any examination of prospective financial information to be performed in accordance
21 with the Statements on Standards for Attestation Engagements (SSAE); and
- 22 (4) The issuance of any report prescribed by the Statements on Auditing Standards, the
23 Statements on Standards for Accounting and Review Services, or the Statements on
24 Standards for Attestation Engagements on any services to which those statements on

1 standards apply, indicating that the service was performed in accordance with
2 standards established by the American Institute of Certified Public Accountants.

3 The statements on standards specified in this definition shall be adopted by reference by the
4 board, by rule promulgated pursuant to chapter 1-26, and shall be those developed for general
5 application by recognized national accountancy organizations.

6 Section 4. That chapter 36-20A be amended by adding thereto a NEW SECTION to read
7 as follows:

8 For the purposes of this chapter, the term, report, if used with reference to financial
9 statements, means an opinion, report, or other form of language that states or implies assurance
10 as to the reliability of any financial statements or assertion. It also includes or is accompanied by
11 any statement or implication that the person or firm issuing it has special knowledge or
12 competence in accounting or auditing and that the service reported upon was performed under
13 standards for such services established by the American Institute of Certified Public Accountants.
14 Such a statement or implication of special knowledge or competence may arise from use by the
15 issuer of the report of names or titles indicating that the person or firm is an accountant or
16 auditor, or from the language of the report itself. The term, report, includes any form of language
17 which disclaims an opinion when such form of language is conventionally understood to imply
18 any positive assurance as to the reliability of the financial statements referred to or special
19 competence on the part of the person or firm issuing such language or both; and it includes any
20 other form of language that is conventionally understood to imply such assurance or such special
21 knowledge or competence or both.

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

24 There is created the South Dakota Board of Accountancy, which has responsibility for the

1 administration and enforcement of this chapter. The board consists of six members, all of whom
2 shall be residents of this state. Five members shall be appointed by the Governor for four-year
3 terms. Four of the appointed members shall be holders of active certificates and three of these
4 shall be in the practice of public accountancy. One appointed member shall be a lay member who
5 is not a holder of a certificate under this chapter but shall have had professional or practical
6 experience in the use of accounting services and financial statements, so as to be qualified to
7 make judgments about the qualifications and conduct of persons and firms subject to regulation
8 under this chapter. The auditor general shall serve as an ex officio member. Any vacancy
9 occurring during a term shall be filled by appointment by the Governor for the unexpired term.
10 Upon the expiration of the member's term of office, a member shall continue to serve until a
11 successor is appointed and takes office. Any member of the board whose certificate is revoked
12 or suspended shall automatically cease to be a member of the board, and the Governor may
13 remove any member of the board for cause. No person who has served two successive complete
14 terms is eligible for reappointment, but appointment to fill an unexpired term is not considered
15 a complete term for this purpose.

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

18 The board shall elect annually from among its members a chair, vice chair, and secretary-
19 treasurer. A quorum for the transaction of board business shall consist of a majority of the
20 members. The board shall meet at such times and places as may be determined by the board. The
21 board shall have a seal which shall be judicially noticed. The board shall retain or arrange for the
22 retention of all applications and all documents under oath that are filed with the board and also
23 records of its proceedings, and it shall maintain a registry of the names and addresses of all active
24 licensees under this chapter. The board may maintain a registry of the names and addresses of

1 all other licensees. In any proceeding in court, whether civil or criminal, arising out of or founded
2 upon any provision of this chapter, copies of any records certified as true copies under the seal
3 of the board are admissible in evidence as tending to prove the contents of the records.

4 Section 7. That chapter 36-20A be amended by adding thereto a NEW SECTION to read
5 as follows:

6 The board is within the Department of Commerce and Regulation and shall submit reports
7 of its activities in the form and at such times as required by the secretary of commerce and
8 regulation.

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

11 All money coming into the custody of the board each calendar month shall be paid by the
12 board to the state treasurer on or before the tenth day of the next month. The state treasurer shall
13 credit the money to the South Dakota Board of Accountancy fund. The money in the South
14 Dakota Board of Accountancy fund is continuously appropriated to the board for the purpose
15 of paying the expense of administering and enforcing the provisions of this chapter. However,
16 the total expense incurred may not exceed the total money collected by the board under the
17 provisions of this chapter.

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

20 Each member of the board shall be paid an amount established by law for each day or portion
21 thereof spent in the discharge of the member's official duties and shall be reimbursed for the
22 member's expenses incurred in the discharge of the member's official duties in accordance with
23 the schedule adopted by the Board of Finance for state employees.

24 Section 10. That chapter 36-20A be amended by adding thereto a NEW SECTION to read

1 as follows:

2 The board may employ an executive director and such other personnel as it deems necessary
3 in its administration and enforcement of this chapter. The board may appoint committees or
4 persons to advise or assist it in such administration and enforcement. The board may retain legal
5 counsel to advise and assist it in addition to the advice and assistance provided by the attorney
6 general.

7 Section 11. That chapter 36-20A be amended by adding thereto a NEW SECTION to read
8 as follows:

9 In addition to any other power granted to the board, the board may take any action that is
10 necessary and proper to effectuate the purposes of this chapter, including:

- 11 (1) The power to sue and be sued in its official name as an agency of this state;
- 12 (2) To issue subpoenas to compel the attendance of witnesses and the production of
13 documents;
- 14 (3) To administer oaths;
- 15 (4) To take testimony and to cooperate with the appropriate authorities in other states in
16 investigation and enforcement concerning violations of this chapter and comparable
17 acts of other states; and
- 18 (5) To receive evidence, concerning all matters within the scope of this chapter.

19 In case of disobedience of a subpoena, the board may invoke the aid of any court in requiring
20 the attendance and testimony of witnesses and the production of documentary evidence.

21 Section 12. That chapter 36-20A be amended by adding thereto a NEW SECTION to read
22 as follows:

23 The board, its members, and its agents are immune from personal liability for actions taken
24 in good faith in the discharge of the board's responsibilities, and the state shall hold the board,

1 its members, and its agents harmless from all costs, damages, and attorneys' fees arising from
2 claims and suits against them with respect to matters to which such immunity applies.

3 Section 13. That chapter 36-20A be amended by adding thereto a NEW SECTION to read
4 as follows:

5 The board may promulgate rules, pursuant to chapter 1-26, governing its administration and
6 enforcement of this chapter and the conduct of licensees, including:

- 7 (1) Rules governing the board's meetings and the conduct of its business;
- 8 (2) Rules of procedure governing the conduct of investigations and hearings by the board;
- 9 (3) Rules specifying the fees, educational and experience qualifications required for the
10 issuance of certificates, the date for renewal of firm permits and certificates, and the
11 continuing professional education required for renewal of certificates;
- 12 (4) Rules of professional conduct to control the quality and integrity of the practice of
13 public accountancy by licensees, covering such areas as independence, integrity, and
14 objectivity; competence and technical and professional standards; responsibilities to
15 the public; and responsibilities to clients;
- 16 (5) Rules governing the manner and circumstances of use by holders of certificates who
17 do not practice public accountancy, as defined under this chapter, of the titles certified
18 public accountant and CPA;
- 19 (6) Rules specifying procedures and fees for registration of certificate holders who do not
20 practice public accountancy, as defined under this chapter;
- 21 (7) Rules governing the manner and circumstances of use by holders of licenses issued
22 under prior law who do not practice public accountancy, as defined under this
23 chapter, of the titles public accountant and PA;
- 24 (8) Rules specifying procedures and fees for registration of license holders who do not

- 1 practice public accountancy, as defined under this chapter;
- 2 (9) Rules regarding peer review pursuant to this chapter;
- 3 (10) Rules specifying peer review administrative fees;
- 4 (11) Rules specifying procedures and fees for required peer review documentation not filed
- 5 in a timely manner;
- 6 (12) Rules specifying fees for examination and reexamination and issuance of a certificate;
- 7 (13) Rules specifying procedures and fees for proctoring applicants from another
- 8 jurisdiction;
- 9 (14) Rules specifying the procedures and fees for initial issuance or renewal of a firm
- 10 permit;
- 11 (15) Rules governing the application and fees for a modification of a disciplinary action or
- 12 reissue of a certificate or firm permit;
- 13 (16) Rules governing the methods, eligibility, and requirements for applying for
- 14 examination and reexamination;
- 15 (17) Rules specifying procedures and fees for renewal of certificates and firm permits not
- 16 filed in a timely manner;
- 17 (18) Rules specifying procedures and fees for replacement of a certificate or permit;
- 18 (19) Rules specifying methods and requirements for conducting the examination;
- 19 (20) Rules specifying methods, eligibility, and requirements of applying for a certificate;
- 20 (21) Rules specifying procedures and fees for issuance of certificates and firm permits not
- 21 filed within the required period of time;
- 22 (22) Rules defining active and inactive status of both certificate and PA license holders
- 23 who are not practicing public accountancy; and
- 24 (23) Rules specifying procedures and fees on substantial equivalency.

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

3 The board shall grant a certificate to any applicant who meets the requirements of good
4 moral character, education, examination, and experience requirements and who pays the fees
5 prescribed in this chapter.

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

8 Good moral character for purposes of section 14 of this Act means lack of a history of
9 dishonest or felonious acts. The board may refuse to grant a certificate on the ground of failure
10 to satisfy this requirement only if there is a substantial connection between the lack of good
11 moral character of the applicant and the professional responsibilities of a licensee and if the
12 finding by the board or lack of good moral character is supported by clear and convincing
13 evidence. If an applicant is found to be unqualified for a certificate because of a lack of good
14 moral character, the board shall furnish the applicant a statement containing the findings of the
15 board, a complete record of the evidence upon which the determination was based, and a notice
16 of the applicant's right of appeal.

17 Section 16. That chapter 36-20A be amended by adding thereto a NEW SECTION to read
18 as follows:

19 The education requirement for a certificate, which shall be met before one hundred days after
20 an applicant sits for the examination prescribed in this chapter, is at least one hundred fifty
21 semester hours of college education, including graduation from an accredited college or
22 university with a baccalaureate or a graduate degree in accounting, or the satisfactory completion
23 of a course of study which the board has determined to be substantially the equivalent of an
24 accounting degree, including related courses in other areas of business administration. Such

1 courses of study may be in a college or university, recognized by the board.

2 Section 17. That chapter 36-20A be amended by adding thereto a NEW SECTION to read
3 as follows:

4 The examination required to be passed as a condition for the granting of a certificate shall
5 be held at least annually and shall test the applicant's knowledge of the subjects of accounting,
6 auditing, and such other related subjects as the board may specify by rule promulgated pursuant
7 to chapter 1-26. The time for holding such examination shall be determined by the board and may
8 be changed from time to time. The board shall prescribe, by rule promulgated pursuant to
9 chapter 1-26, the methods of applying for and conducting the examination, including methods
10 for grading and determining a passing grade required of an applicant for a certificate. However,
11 the board shall, to the extent possible, assure that the examination, grading of the examination,
12 and the passing grades are uniform with those applicable in other states. The board may make
13 use of any part of the Uniform Certified Public Accountant Examination and Advisory Grading
14 Service of the American Institute of Certified Public Accountants and may contract with third
15 parties to perform such administrative services with respect to the examination to assist it in
16 performing its duties.

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

19 An applicant shall pass all parts of the examination provided for in this section to qualify for
20 a certificate. If at any sitting of the examination an applicant passes the number of parts specified
21 by the board, by rule promulgated pursuant to chapter 1-26, then the applicant shall be given
22 credit for those parts passed and need not sit for reexamination in those parts if:

- 23 (1) The applicant wrote all parts of the examination specified by the board, by rule
24 promulgated pursuant to chapter 1-26;

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

12 Section 19. That chapter 36-20A be amended by adding thereto a NEW SECTION to read
13 as follows:

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

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

22 An applicant shall pass an examination covering the rules of ethics and professional conduct
23 promulgated by the board pursuant to chapter 1-26. The examination may be part of the uniform
24 CPA examination or may be a separate examination.

1 Section 21. That chapter 36-20A be amended by adding thereto a NEW SECTION to read
2 as follows:

3 The board may charge, or provide for a third-party administering the examination to charge,
4 each applicant a fee, in an amount prescribed by the board, by rule promulgated pursuant to
5 chapter 1-26, for each section of the examination or reexamination taken by the applicant.

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

8 An applicant for initial issuance of a certificate under this chapter shall show that the
9 applicant has acquired one year of experience. This experience shall include providing any type
10 of service or advice involving the use of accounting, attest, management advisory, financial
11 advisory, tax, or consulting skills, all of which were verified by a licensee, meeting requirements
12 prescribed by the board, by rule promulgated pursuant to chapter 1-26. Acceptable experience
13 may be gained through employment in government, industry, academia, or public practice. Any
14 person holding a valid certificate issued by this state prior to July 1, 2002, is deemed to have met
15 the requirements of this section.

16 Section 23. That chapter 36-20A be amended by adding thereto a NEW SECTION to read
17 as follows:

18 An individual who passes the examination as a South Dakota candidate may apply for a
19 certificate in accordance with requirements and by such date established by rule, promulgated
20 pursuant to chapter 1-26. The board shall grant or renew a certificate to any person who makes
21 application and demonstrates qualifications that are in accordance with the provisions of this
22 chapter eligibility under the substantial equivalency standard provided in this chapter.

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

1 A certificate shall be initially issued, and renewed, for a period of one year. However,
2 certificates shall expire on the renewal date as established by the board, by rule promulgated
3 pursuant to chapter 1-26. Applications for such certificates shall be made in such form, and in
4 the case of applications for renewal, between such dates, as the board shall specify by rule
5 promulgated pursuant to chapter 1-26. The board shall grant or deny any such application no
6 later than ninety days after the application is filed in proper form. If the applicant seeks the
7 opportunity to show that issuance or renewal of a certificate was mistakenly denied, or if the
8 board is not able to determine whether it should be granted or denied, the board may issue to the
9 applicant a provisional certificate, which shall expire ninety days after its issuance or when the
10 board determines whether to issue or renew the certificate for which application was made,
11 whichever occurs first.

12 The failure of an applicant to renew under this chapter does not deprive the applicant of the
13 right of renewal thereafter if the applicant is otherwise qualified.

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

16 Any holder of a certificate or registration shall relinquish such document to the board within
17 thirty days after such certificate or registration has been suspended or revoked.

18 Section 26. That chapter 36-20A be amended by adding thereto a NEW SECTION to read
19 as follows:

20 The board shall issue a certificate to an applicant who does not qualify for reciprocity under
21 the substantial equivalency standard provided in this chapter but who holds a certificate, license,
22 or permit issued by another state upon a showing that:

23 (1) The applicant passed the examination required for issuance of the applicant's
24 certificate with grades that would have been passing grades at the time in this state;

- 1 (2) The applicant had four years of experience of the type described in this chapter or
2 meets equivalent requirements prescribed by the board, by rule promulgated pursuant
3 to chapter 1-26, after passing the examination upon which the applicant's certificate
4 was based and within the ten years immediately preceding the application; and
- 5 (3) The applicant has fulfilled the requirements of continuing professional education that
6 would have been applicable under subdivision (2) if the applicant's certificate, license,
7 or permit was issued more than four years prior to the application for issuance of an
8 initial certificate under this chapter.

9 Section 27. That chapter 36-20A be amended by adding thereto a NEW SECTION to read
10 as follows:

11 A certificate holder licensed by another state, before establishing a principal place of business
12 in this state, shall request the issuance of a certificate from the board. The board shall issue a
13 certificate to any applicant who obtains from the board of the other state verification that such
14 applicant's qualifications are substantially equivalent to the CPA licensure requirements of this
15 chapter.

16 Section 28. That chapter 36-20A be amended by adding thereto a NEW SECTION to read
17 as follows:

18 For renewal of a certificate under this chapter, a licensee shall participate in a program of
19 learning designed to maintain professional competency. The program of learning shall comply
20 with rules, promulgated by the board pursuant to chapter 1-26. A licensee shall complete one
21 hundred twenty hours of continuing education in each three-year renewal period. The board may,
22 by rule promulgated pursuant to chapter 1-26, establish an exception to this requirement for
23 certificate holders who do not perform or offer to perform for the public one or more kinds of
24 services involving the use of accounting or auditing skills, including issuance of reports on

1 financial statements or of one or more kinds of management advisory, financial advisory, or
2 consulting services, or the preparation of tax returns or the furnishing of advice on tax matters.
3 Any licensee granted such an exception by the board must place the word, inactive, adjacent to
4 their CPA title or PA title on any business card, letterhead, or any other document or device,
5 with the exception of their CPA certificate or PA license, on which their CPA or PA title
6 appears.

7 Section 29. That chapter 36-20A be amended by adding thereto a NEW SECTION to read
8 as follows:

9 The board shall charge a fee for each application for initial issuance or renewal of a certificate
10 under this chapter in an amount prescribed by the board, by rule promulgated pursuant to chapter
11 1-26.

12 Section 30. That chapter 36-20A be amended by adding thereto a NEW SECTION to read
13 as follows:

14 An applicant for initial issuance or renewal of a certificate under this chapter shall in the
15 application, list any state in which the applicant has applied for or holds a certificate, license, or
16 permit and list any past denial, revocation, or suspension of a certificate, license, or permit. Each
17 holder of or applicant for a certificate under this chapter shall notify the board in writing, within
18 thirty days after its occurrence, of any issuance, denial, revocation, or suspension of a certificate,
19 license, or permit by another state, change of address or employment, or any conviction of a
20 felony.

21 Section 31. That chapter 36-20A be amended by adding thereto a NEW SECTION to read
22 as follows:

23 The board shall issue a certificate to a holder of a substantially equivalent foreign designation
24 if the following conditions are satisfied:

- 1 (1) The foreign authority which granted the designation makes similar provision to allow
2 a person who holds a valid certificate issued by this state to obtain such foreign
3 authority's comparable designation;
- 4 (2) The foreign designation was duly issued by a foreign authority that regulates the
5 practice of public accountancy, based on educational and examination requirements
6 established by the foreign authority or by statute and the foreign designation has not
7 expired or been revoked or suspended;
- 8 (3) The applicant received the designation, based on educational and examination
9 standards substantially equivalent to those in effect in this state at the time the foreign
10 designation was granted, and the designation was issued upon the basis of
11 educational, examination, and experience requirements established by the foreign
12 authority or by law;
- 13 (4) The applicant passed a qualifying examination, with the examination grading and
14 passing grades being uniform with those applicable in other states, and an examination
15 acceptable to the board on the law, rules, and code of ethical conduct in effect in this
16 state; and
- 17 (5) The applicant received the designation based on educational and examination
18 standards substantially equivalent to those in effect in this state at the time the foreign
19 designation was granted; completed an experience requirement substantially
20 equivalent to the requirement provided in this chapter in the jurisdiction which granted
21 the foreign designation or has completed four years of professional experience in this
22 state; or meets equivalent requirements prescribed by the board, by rule promulgated
23 pursuant to chapter 1-26, within the ten years immediately preceding the application;
24 and passed a uniform qualifying examination consistent with national standards and

1 an examination on the laws, rules, and code of ethical conduct in effect in this state.

2 An applicant under this section shall list in the application all jurisdictions, foreign and
3 domestic, in which the applicant has applied for or holds a designation to practice public
4 accountancy, and each holder of a certificate issued under this section shall notify the board in
5 writing, within thirty days after its occurrence, of any issuance, denial, revocation, or suspension
6 of a designation or commencement of a disciplinary or enforcement action by any jurisdiction.
7 The board has the sole authority to interpret the application of the provisions of this section.

8 Section 32. That chapter 36-20A be amended by adding thereto a NEW SECTION to read
9 as follows:

10 Any certificate holder who performs compilation services for the public other than through
11 a CPA firm shall undergo, no more frequently than once every three years, as a condition for
12 renewal of a certificate, a peer review conducted in such manner as the board shall specify by
13 rule, promulgated pursuant to chapter 1-26. The review shall include verification that the
14 certificate holder has met the competency requirements set out in professional standards for such
15 services.

16 Section 33. That chapter 36-20A be amended by adding thereto a NEW SECTION to read
17 as follows:

18 The board shall grant or renew a permit to practice as a CPA firm or PA firm to an entity that
19 makes application and demonstrates its qualifications in accordance with this chapter or to a
20 CPA firm originally licensed in another state that establishes an office in this state. A firm with
21 multiple locations shall obtain a permit for each location. A firm must hold a permit issued under
22 this section in order to provide attest services as defined in this chapter or to use the title, CPAs,
23 CPA firm, PAs, or PA firm.

24 A permit shall be initially issued and renewed for periods of not more than one year.

1 However, a permit expires on the date as established by the board, by rule promulgated pursuant
2 to chapter 1-26 following issuance or renewal. An application for a permit shall be made in such
3 form, and in the case of an application for renewal, between such dates as the board may, by rule
4 promulgated pursuant to chapter 1-26, specify. If the applicant seeks the opportunity to show
5 that issuance or renewal of a permit was mistakenly denied or if the board is not able to
6 determine whether it should be granted or denied, the board may issue to the applicant a
7 provisional permit, which expires ninety days after its issuance, or when the board determines
8 whether to issue or renew the permit for which the application was made, whichever occurs first.

9 Section 34. That chapter 36-20A be amended by adding thereto a NEW SECTION to read
10 as follows:

11 An applicant for initial issuance or renewal of a permit to practice under this chapter shall
12 comply with the following:

13 (1) Notwithstanding any other provision of law, a majority of the owners of the firm, in
14 terms of financial interests and voting rights, are holders of a certificate and are
15 licensed in some state, and such owners whose principal place of business is in this
16 state and who perform professional services in this state hold a valid certificate issued
17 under this chapter or the corresponding provision of prior law or are public
18 accountants registered under this chapter. Firms may include nonlicensee owners.
19 However, such firms must be controlled by the majority vote of owners who are
20 holders of a certificate and who are licensed in some state, and such control may not
21 be relinquished by contract, such as through veto rights held by owners of less than
22 a majority of the owners. The firm and its ownership shall comply with rules
23 promulgated by the board pursuant to chapter 1-26. For firms of public accountants,
24 at least a majority of the owners of the firm must be holders of registrations under this

1 chapter;

2 (2) Any CPA or PA firm as defined in this chapter may include nonlicensee owners if the
3 firm designates a licensee of this state who is responsible for the proper registration
4 of the firm and identifies non-license owners to the board;

5 (3) All nonlicensee owners are active individual participants in the CPA or PA firm or an
6 affiliated entity;

7 (4) The firm complies with such other requirements as the board may establish by rule
8 promulgated pursuant to chapter 1-26;

9 (5) Any individual licensee who is responsible for supervising attest or compilation
10 services and signs or authorizes another individual to sign the accountant's report on
11 the financial statements on behalf of the firm shall meet the experience requirements
12 set out in the professional standards for such services; and

13 (6) Any individual licensee who signs or authorizes an individual to sign the accountant's
14 report on the financial statements on behalf of the firm shall meet the experience
15 requirement of this chapter.

16 An applicant for initial issuance or renewal of a permit to practice shall register each office
17 of the firm within this state with the board and show that all attest and compilation services
18 rendered in this state are under the charge of a person holding a valid certificate issued under this
19 chapter or the corresponding provision of prior law or some other state.

20 Section 35. That chapter 36-20A be amended by adding thereto a NEW SECTION to read
21 as follows:

22 An applicant for initial issuance or renewal of a permit under this chapter shall list in the
23 application any state in which the applicant has applied for or holds a permit as a CPA firm and
24 shall list any past denial, revocation, or suspension of a permit by any other state.

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

3 Each holder of or applicant for a permit under this chapter shall notify the board in writing,
4 within thirty days after its occurrence, of any change in the identity of any partner, officer,
5 shareholder, member, or manager whose principal place of business is in this state, any change
6 in the number or location of offices within this state, any change in the identity of the person in
7 charge of such offices, and any issuance, denial, revocation, or suspension of a permit by any
8 other state.

9 Firms failing to comply with the provisions of this chapter due to changes in firm ownership
10 or personnel, after receiving or renewing a permit, shall take immediate corrective action to
11 return the firm to compliance. The board may grant a reasonable period of time for a firm to take
12 corrective action as specified by rule promulgated pursuant to chapter 1-26. Failure of the firm
13 to comply within a reasonable period as defined by the board shall result in the suspension or
14 revocation of the firm permit.

15 Section 37. That chapter 36-20A be amended by adding thereto a NEW SECTION to read
16 as follows:

17 The board may, by rule promulgated pursuant to chapter 1-26, require, on either a uniform
18 or a random basis, as a condition of renewal of firm permits pursuant to this chapter, that an
19 applicant undergo peer review conducted in such manner and producing such satisfactory result
20 as the board may specify. However, any such requirement shall include reasonable provision for
21 compliance by means of an applicant furnishing evidence of a satisfactory peer review performed
22 for other purposes. Such review shall include a verification that individuals in the firm who are
23 responsible for supervising attest and compilation services and who sign or authorize someone
24 to sign the accountant's report on the financial statements on behalf of the firm, meet the

1 competency requirements set out in the professional standards for such services. Any rule
2 promulgated pursuant to this section shall:

- 3 (1) Include reasonable provision for compliance by an applicant showing that it has,
4 within the preceding three years, undergone a peer review that is a satisfactory
5 equivalent to peer review generally required pursuant to this section;
- 6 (2) Require, with respect to a peer review contemplated by subdivision (1), that it be
7 subject to oversight by an oversight body established or sanctioned by board rule,
8 promulgated pursuant to chapter 1-26, which body shall periodically report to the
9 board on the effectiveness of the review program under its charge, and provide to the
10 board a listing of firms that have participated in a peer review program that is
11 satisfactory to the board; and
- 12 (3) Require, with respect to peer review contemplated by subdivision (1), that any peer
13 review process be operated and any documents maintained in a manner designed to
14 preserve confidentiality, and that neither the board nor any third party, other than the
15 oversight body, may have access to documents furnished or generated in the course
16 of the review.

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

22 Section 38. That chapter 36-20A be amended by adding thereto a NEW SECTION to read
23 as follows:

24 The board shall charge a fee for each application for initial issuance or renewal of a permit

1 in an amount prescribed by the board, by rule promulgated pursuant to chapter 1-26.

2 Section 39. That chapter 36-20A be amended by adding thereto a NEW SECTION to read
3 as follows:

4 Any person who, on the effective date of this Act, holds any license or permit as a public
5 accountant issued under prior law of this state may have the registration renewed upon
6 fulfillment of the continuing professional education requirements for renewal of certificates
7 provided in this chapter, and on the renewal cycle and payment of fees therein prescribed for
8 renewal of certificates. Any registration not so renewed expires three years after the effective
9 date of this Act. Firms of public accountants holding permits to practice issued under prior law
10 of this state may have their permits to practice renewed pursuant to the procedures, and subject
11 to the requirements for renewal of permits to practice for firms of certified public accountants,
12 provided in this chapter. So long as such public accountant licensees hold valid registrations and
13 permits to practice, they may perform attest and compilation services to the same extent as
14 holders of certificates, and other holders of permits, and in addition they may use the title, public
15 accountants and PA, but no other title. The holder of a registration issued under this section may
16 only perform attest services in a firm that holds a permit issued under this chapter.

17 Section 40. That chapter 36-20A be amended by adding thereto a NEW SECTION to read
18 as follows:

19 An application by a person or a firm not a resident of this state for a certificate or a firm
20 permit to practice shall constitute appointment of the secretary of state as the applicant's agent
21 upon whom process may be served in any action or proceeding against the applicant arising out
22 of any transaction or operation connected with or incidental to services performed by the
23 applicant while a licensee within this state.

24 Section 41. That chapter 36-20A be amended by adding thereto a NEW SECTION to read

1 as follows:

2 The board may, in accordance with chapter 1-26, revoke any certificate, license, or permit
3 issued pursuant to this chapter or corresponding provisions of prior law or revoke or limit
4 privileges under this chapter; suspend any such certificate, license, or permit, or refuse to renew
5 any such certificate, license, or permit for a period of not more than five years; reprimand,
6 censure, or limit the scope of practice of any licensee; impose an administrative fine not
7 exceeding one thousand dollars, or place any licensee on probation, all with or without terms,
8 conditions, and limitations, for any one or more of the following reasons:

- 9 (1) Fraud or deceit in obtaining a certificate or permit;
- 10 (2) Cancellation, revocation, suspension, or refusal to renew a certificate, license, or
11 permit to engage in the practice of public accountancy in any other state for any
12 cause;
- 13 (3) Failure, on the part of a holder of a certificate, license, or permit under this chapter
14 or registration under this chapter, or of a certificate, license or permit issued by
15 another state, to maintain compliance with the requirements for issuance or renewal
16 of such certificate, license, permit, or registration or to report changes to the board;
- 17 (4) Revocation or suspension of the right to practice before any state or federal agency;
- 18 (5) Dishonesty, fraud, or gross negligence in the performance of services as a licensee or
19 individual granted privileges under this chapter or in the filing or failure to file one's
20 own income tax returns;
- 21 (6) Violation of any provision of this chapter or rule, promulgated by the board pursuant
22 to chapter 1-26, or violation of professional standards;
- 23 (7) Violation of any rule of professional conduct promulgated by the board pursuant to
24 chapter 1-26;

- 1 (8) Conviction of a felony, or of any crime an element of which is dishonesty or fraud,
2 under the laws of the United States, of this state, or of any other state if the acts
3 involved would have constituted a crime under the laws of this state;
- 4 (9) Performance of any fraudulent act while holding a certificate, license, or permit or
5 privilege issued under this chapter or prior law;
- 6 (10) Any conduct reflecting adversely upon the licensee's fitness to perform services while
7 a licensee, or individual granted privileges under this chapter;
- 8 (11) Making any false or misleading statement or verification, in support of an application
9 for a certificate, registration, or permit filed by another; and
- 10 (12) Dishonesty or gross negligence in the performance of peer reviews.

11 In lieu of or in addition to any remedy specifically provided in this section, the board may
12 require of a licensee a peer review conducted in such manner as the board may specify or
13 satisfactory completion of such continuing professional education programs as the board may
14 specify, or both.

15 In any proceeding in which a remedy provided by this section is imposed, the board may also
16 require the respondent licensee to pay the costs of the proceeding.

17 Section 42. That chapter 36-20A be amended by adding thereto a NEW SECTION to read
18 as follows:

19 The board may, upon receipt of a complaint or other information suggesting violations of this
20 chapter or of the rules of the board, conduct investigations to determine whether there is
21 probable cause to institute proceedings under chapter 1-26 or of this chapter against any person
22 or firm for such violation. However, no investigation under this section may be a prerequisite to
23 such proceedings in the event that a determination of probable cause can be made without
24 investigation. In aid of such investigations, the board or the chair thereof may issue subpoenas

1 to compel witnesses to testify and to produce evidence.

2 Section 43. That chapter 36-20A be amended by adding thereto a NEW SECTION to read
3 as follows:

4 The board may designate a member, or any other person of appropriate competence, to serve
5 as investigating officer to conduct an investigation. Upon completion of an investigation, the
6 investigating officer shall file a report with the board. The board shall find probable cause or lack
7 of probable cause upon the basis of the report or shall return the report to the investigating
8 officer for further investigation. Unless there has been a determination of probable cause, the
9 report of the investigating officer, the complaint, if any, the testimony and documents submitted
10 in support of the complaint or gathered in the investigation, and the fact of pendency of the
11 investigation shall be treated as confidential information and may not be disclosed to any person
12 except law enforcement authorities and, to the extent deemed necessary in order to conduct the
13 investigation, the subject of the investigation, persons whose complaints are being investigated,
14 and witnesses questioned in the course of the investigation.

15 Section 44. That chapter 36-20A be amended by adding thereto a NEW SECTION to read
16 as follows:

17 Upon a finding of probable cause, if the subject of the investigation is a licensee or an
18 individual with privileges under this chapter, the board shall proceed in accordance with chapter
19 1-26. If the subject of the investigation is not a licensee or an individual with privileges under this
20 chapter, the board shall take appropriate action under this chapter. Upon a finding of no probable
21 cause, the board shall close the matter and shall thereafter release information relating thereto
22 only with the consent of the person or firm under investigation.

23 Section 45. That chapter 36-20A be amended by adding thereto a NEW SECTION to read
24 as follows:

1 The board may review the publicly available professional work of licensees or an individual
2 with privileges under this chapter on a general and random basis, without any requirement of a
3 formal complaint or suspicion of impropriety on the part of any particular licensee. If, as a result
4 of such review, the board discovers grounds for a more specific investigation, the board may
5 proceed as prescribed under this chapter.

6 Section 46. That chapter 36-20A be amended by adding thereto a NEW SECTION to read
7 as follows:

8 If probable cause with respect to a violation by a licensee or an individual with privileges
9 granted under this chapter has been determined by the board, or upon receipt of notice of a
10 decision by the board of another state furnishing grounds for a determination of probable cause,
11 the board may issue a complaint setting forth appropriate charges and set a date for hearing
12 before the board on such charges. If a complaint is issued and a hearing date set, the board shall,
13 not less than thirty days prior to the date of the hearing, serve a copy of the complaint and notice
14 of the time and place of the hearing upon the licensee or an individual with privileges granted
15 under this chapter, together with a copy of the board's rules governing proceedings under this
16 section, either by personal delivery or by mailing a copy thereof by registered mail to the licensee
17 at the licensee's address, last known to the board. In the case of an individual exercising
18 privileges under this chapter, service shall be by certified or registered mail to the address last
19 known to the board, or pursuant to chapter 1-26.

20 Section 47. That chapter 36-20A be amended by adding thereto a NEW SECTION to read
21 as follows:

22 A licensee or an individual with privileges under this chapter against whom a complaint has
23 been issued under this section may, reasonably in advance of the hearing, examine and copy the
24 report of investigation, if any, and any documentary or testimonial evidence and summaries of

1 anticipated evidence in the board's possession relating to the subject matter of the complaint. The
2 board shall adopt rules, promulgated pursuant to chapter 1-26, governing proceedings under this
3 section to specify the manner in which such right may be exercised.

4 Section 48. That chapter 36-20A be amended by adding thereto a NEW SECTION to read
5 as follows:

6 The respondent licensee or an individual with privileges granted under this chapter may
7 appear at the hearing in person or, in the case of a firm, through a partner, officer, director,
8 shareholder, member, or manager, and by counsel, examine witnesses and evidence presented
9 in support of the complaint, and present evidence and witnesses on the licensee's or an
10 individual's own behalf. The licensee or an individual granted privileges under this chapter is
11 entitled, on application to the board, to the issuance of subpoenas to compel the attendance of
12 witnesses and the production of documentary evidence.

13 Section 49. That chapter 36-20A be amended by adding thereto a NEW SECTION to read
14 as follows:

15 The evidence supporting the complaint shall be presented by the investigating officer, by a
16 board member designated for that purpose, or by counsel. A board member who presents the
17 evidence, or who has conducted the investigation of the matter under this chapter, may not
18 participate in the board's decision of the matter.

19 The board shall be advised by counsel, who may be the same counsel who presents or assists
20 in presenting the evidence supporting the complaint.

21 A stenographic or electronic record may be made and filed with the board. A transcript need
22 not be prepared unless review is sought or the board determines that there is other good cause
23 for its preparation.

24 A recorded vote of a majority of all members of the board, other than members disqualified

1 by reason of this section, is required to sustain any charge and to impose any penalty with respect
2 thereto.

3 Section 50. That chapter 36-20A be amended by adding thereto a NEW SECTION to read
4 as follows:

5 If after service of a complaint and notice of hearing the respondent licensee fails to appear
6 at the hearing, the board may proceed to hear evidence against the licensee or an individual
7 granted privileges under this chapter and may enter an order as it deems warranted by the
8 evidence. Any order shall be final unless the licensee or an individual granted privileges under
9 this chapter petitions for review. However, within thirty days from the date of any such order,
10 upon a showing of good cause for the licensee's or an individual's failure to appear and defend,
11 the board may set aside the order and schedule a new hearing on the complaint, to be conducted
12 in accordance with the provisions of this section.

13 Section 51. That chapter 36-20A be amended by adding thereto a NEW SECTION to read
14 as follows:

15 Any person or firm adversely affected by any order of the board entered after a hearing under
16 this chapter may obtain review thereof by filing a written petition for review with the circuit
17 court within thirty days after the entry of the order. The procedures for review and the scope of
18 the review shall be as specified in chapter 1-26.

19 Section 52. That chapter 36-20A be amended by adding thereto a NEW SECTION to read
20 as follows:

21 If the board renders a decision imposing discipline against a licensee or an individual granted
22 privileges under this chapter, the board shall notify any board of accountancy of any other state
23 in which the licensee also holds certificates, licenses, or permits of its decision, by mail, within
24 forty-five days of rendering the decision. The board may also furnish information relating to

1 proceedings resulting in disciplinary action to other public authorities and to private professional
2 organizations having a disciplinary interest in the licensee.

3 If a petition for review has been filed pursuant to this chapter, the notification and furnishing
4 of information provided for in this section shall await the resolution of such review and, if
5 resolution is in favor of the licensee or an individual granted privileges under this chapter, no
6 such notification or furnishing of information may be made.

7 Section 53. That chapter 36-20A be amended by adding thereto a NEW SECTION to read
8 as follows:

9 If the board has suspended or revoked a certificate, license, permit, or registration or revoked
10 or limited privileges under this chapter or refused to renew a certificate, license, permit, or
11 registration, the board may, upon application in writing by the person or firm affected and for
12 good cause shown, modify the suspension, or reissue the certificate, license, permit, or
13 registration or remove the limitation or revocation of privileges.

14 The board shall, by rule promulgated pursuant to chapter 1-26, specify the manner in which
15 such applications shall be made, the times within which they shall be made, and the circumstances
16 in which hearings will be held.

17 Section 54. That chapter 36-20A be amended by adding thereto a NEW SECTION to read
18 as follows:

19 Before reissuing or terminating the suspension of a certificate, license, permit, or registration
20 under this section or of privileges under this chapter, and as a condition thereto, the board may
21 require the applicant to show successful completion of specified continuing professional
22 education. The board may make the reinstatement of a certificate, license, permit, or registration
23 or of privileges under this chapter conditional and subject to satisfactory completion of a peer
24 review conducted in such manner as the board may specify.

1 Section 55. That chapter 36-20A be amended by adding thereto a NEW SECTION to read
2 as follows:

3 No person other than a licensee may issue a report on financial statements of any person,
4 firm, organization, or governmental unit or offer to render or render any attest or compilation
5 service. This restriction does not prohibit any act of a public official or public employee in the
6 performance of that person's duties as such, or prohibit the performance by any nonlicensee of
7 other services involving the use of accounting skills, including the preparation of tax returns,
8 management advisory services, and the preparation of financial statements without the issuance
9 of reports thereon. A nonlicensee may prepare financial statements and issue nonattest
10 transmittals or information thereon which do not purport to be in compliance with the Statements
11 on Standards for Accounting and Review Services (SSARS).

12 A licensee performing attest or compilation services shall provide those services in
13 accordance with professional standards.

14 Section 56. That chapter 36-20A be amended by adding thereto a NEW SECTION to read
15 as follows:

16 A person who does not hold a valid certificate may not use or assume the title, certified
17 public accountant, the abbreviation, CPA, or any other title, designation, words, letters,
18 abbreviation, sign, card, or device tending to indicate that such person is a certified public
19 accountant.

20 No firm may provide attest services or assume or use the title, certified public accountants,
21 or the abbreviation, CPAs, or any other title, designation, words, letters, abbreviation, sign, card,
22 or device tending to indicate that such firm is a CPA firm unless:

- 23 (1) The firm holds a valid permit issued under this chapter; and
24 (2) Ownership of the firm is in accordance with this chapter and rules promulgated by the

1 board in accordance with chapter 1-26.

2 Section 57. That chapter 36-20A be amended by adding thereto a NEW SECTION to read
3 as follows:

4 No person who does not hold a valid license may use or assume the title, public accountant,
5 or the abbreviation, PA, or any other title, designation, words, letters, abbreviation, sign, card,
6 or device tending to indicate that such person is a public accountant.

7 No firm may provide attest services or assume or use the title, public accountants, or the
8 abbreviation, PAs, or any other title, designation, words, letters, abbreviation, sign, card, or
9 device tending to indicate that such firm is a PA firm unless:

- 10 (1) The firm holds a valid permit issued under this chapter; and
11 (2) Ownership of the firm is in accordance with this chapter and rules promulgated by the
12 board in accordance with chapter 1-26.

13 Section 58. That chapter 36-20A be amended by adding thereto a NEW SECTION to read
14 as follows:

15 No person or firm, not holding a valid certificate, permit, or registration issued under this
16 chapter, may assume or use the title, certified accountant, chartered accountant, enrolled
17 accountant, licensed accountant, registered accountant, accredited accountant, or any other title
18 or designation likely to be confused with the titles, certified public accountant or public
19 accountant, or use any of the abbreviations CA, LA, RA, AA, or similar abbreviation likely to
20 be confused with the abbreviations, CPA or PA. The title, Enrolled Agent or EA may only be
21 used by individuals so designated by the Internal Revenue Service.

22 No nonlicensee may use language in any statement relating to the financial affairs of a person
23 or entity which is conventionally used by licensees in reports on financial statements.

24 Section 59. That chapter 36-20A be amended by adding thereto a NEW SECTION to read

1 as follows:

2 No person or firm which does not hold a valid certificate, permit, or registration issued under
3 this chapter may assume or use any title or designation that includes the words, accountant,
4 auditor, or accounting, in connection with any other language, including the language of a report,
5 that implies that such person or firm holds such a certificate, permit, or registration or has special
6 competence as an accountant or auditor. However, this section does not prohibit any officer,
7 partner, member, manager, or employee of any firm or organization from affixing that person's
8 own signature to any statement in reference to the financial affairs of such firm or organization
9 with any wording designating the position, title, or office that the person holds therein nor
10 prohibit any act of a public official or employee in the performance of the persons duties as such.

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

13 Section 60. That chapter 36-20A be amended by adding thereto a NEW SECTION to read
14 as follows:

15 The provisions of this chapter do not apply to any person or firm holding a certification,
16 designation, degree, or license granted in a foreign country entitling the holder thereof to engage
17 in the practice of public accountancy or its equivalent in such country, whose activities in this
18 state are limited to the provision of professional services to persons or firms who are residents
19 of, governments of, or business entities of, the country in which the person holds such
20 entitlement, who performs no attest or compilation services and who issues no reports with
21 respect to the financial statements of any other persons, firms, or governmental units in this state,
22 and who does not use in this state any title or designation other than the one under which the
23 person practices in such country, followed by a translation of such title or designation into the
24 English language, if it is in a different language, and by the name of such country.

1 Section 61. That chapter 36-20A be amended by adding thereto a NEW SECTION to read
2 as follows:

3 No holder of a certificate issued under this chapter or a registration issued under this chapter
4 may perform attest services through any business form that does not hold a valid permit issued
5 under this chapter. This restriction does not prohibit any act of a public official or public
6 employee in the performance of that person's duties as such.

7 Section 62. That chapter 36-20A be amended by adding thereto a NEW SECTION to read
8 as follows:

9 No individual licensee may issue a report in standard form upon a compilation of financial
10 information through any form of business that does not hold a valid permit issued under this
11 chapter unless the report discloses the name of the business through which the individual is
12 issuing the report, and the individual:

- 13 (1) Signs the compilation report identifying the individual as a CPA or PA;
- 14 (2) Meets the competency requirement provided in applicable standards; and
- 15 (3) Undergoes no less frequently than once every three years, a peer review conducted
16 in such manner as the board shall, by rule promulgate in accordance with chapter 1-
17 26, specify. Such review shall include verification that the individual has met the
18 competency requirements set out in professional standards for such services.

19 Section 63. That chapter 36-20A be amended by adding thereto a NEW SECTION to read
20 as follows:

21 Nothing in this chapter prohibits a practicing attorney or firm of attorneys from preparing or
22 presenting records or documents customarily prepared by an attorney or firm of attorneys in
23 connection with the attorney's professional work in the practice of law.

24 Section 64. That chapter 36-20A be amended by adding thereto a NEW SECTION to read

1 as follows:

2 If, as a result of an investigation under this chapter or otherwise, the board believes that any
3 person or firm has engaged in, or is about to engage in any act or practice which constitutes or
4 will constitute a violation of this chapter, the board may make application to the appropriate
5 court for an order enjoining such act or practice, and upon a showing by the board that such
6 person or firm has engaged, or is about to engage, in any such act or practice, the court may
7 grant an injunction, restraining order, or other order as may be appropriate.

8 Section 65. That chapter 36-20A be amended by adding thereto a NEW SECTION to read
9 as follows:

10 If, by reason of an investigation under this chapter or otherwise, the board has reason to
11 believe that any person or firm has knowingly engaged in any act or practice that constitutes a
12 violation of this chapter, the board may bring its information to the attention of the attorney
13 general of any state or other appropriate law enforcement officer who may cause appropriate
14 criminal proceedings to be brought thereon.

15 Any person or firm who knowingly violates any provision of this chapter is guilty of a Class
16 1 misdemeanor.

17 Section 66. That chapter 36-20A be amended by adding thereto a NEW SECTION to read
18 as follows:

19 In any action brought under this chapter, evidence of the commission of a single act
20 prohibited by this chapter is sufficient to justify a penalty, injunction, restraining order, or
21 conviction, respectively, without evidence of a general course of conduct.

22 Section 67. That chapter 36-20A be amended by adding thereto a NEW SECTION to read
23 as follows:

24 An individual whose principal place of business is not in this state having a valid certificate

1 or license as a certified public accountant from any state which the board has verified to be in
2 substantial equivalence with the licensure requirements of this chapter is presumed to have
3 qualifications substantially equivalent to this state's requirements and shall have all the privileges
4 of certificate holders and licensees of this chapter without the need to obtain a certificate or
5 permit under this chapter. However, such individuals shall notify the board of their intent to enter
6 the state under this provision completing procedures and paying fees specified by the board and
7 promulgated by rule pursuant to chapter 1-26.

8 Section 68. That chapter 36-20A be amended by adding thereto a NEW SECTION to read
9 as follows:

10 An individual whose principal place of business is not in this state having a valid certificate
11 or license as a certified public accountant from any state which the board or its designee has not
12 verified to be in substantial equivalence with the licensure requirements of this chapter shall be
13 presumed to have qualifications substantially equivalent to this state's requirements and shall
14 have all the privileges of certificate holders and licensees of this state without the need to obtain
15 a certificate or permit under this chapter. However, such individuals shall notify the board of
16 their intent to enter the state under this provision completing procedures and paying fees
17 specified by the board and promulgated by rule pursuant to chapter 1-26.

18 Section 69. That chapter 36-20A be amended by adding thereto a NEW SECTION to read
19 as follows:

20 Any licensee of another state exercising the privilege afforded under this chapter hereby
21 consents, as a condition of the grant of this privilege, to the personal and subject matter
22 jurisdiction and disciplinary authority of the board, to comply with this chapter and the board's
23 rules, and to the appointment of the state board which issued their license as their agent upon
24 whom process may be served in any action or proceeding by this board against the licensee.

1 Section 70. That chapter 36-20A be amended by adding thereto a NEW SECTION to read
2 as follows:

3 A licensee of this state offering or rendering services or using their CPA title in another state
4 is subject to disciplinary action in this state for an act committed in another state for which the
5 licensee would be subject to discipline for an act committed in the other state. Notwithstanding
6 the provisions in this chapter, the board shall investigate any complaint made by the board of
7 accountancy of another state.

8 Section 71. That § 47-13B-2 be amended to read as follows:

9 47-13B-2. The corporation shall be organized solely for the purpose of conducting the
10 practice of accountancy ~~only through persons qualified to practice accountancy in the State of~~
11 ~~South Dakota.~~

12 Section 72. That § 47-13B-5 be repealed.

13 ~~47-13B-5. All shareholders of the corporation shall be persons duly licensed as a public~~
14 ~~accountant or as a certified public accountant by some state and who at all times own shares in~~
15 ~~their own right. They shall be individuals who, except for illness, accident, time spent in the~~
16 ~~armed services, on vacations, and on leaves of absence, not to exceed one year, are actively~~
17 ~~engaged in the practice of accountancy or as certified public accountants.~~