

# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

273I0366

## HOUSE BILL NO. 1208

Introduced by: Representatives Garnos and McCaulley and Senator Napoli

1 FOR AN ACT ENTITLED, An Act to provide tax exemptions or refunds for certain economic  
2 and business development projects.

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

4 Section 1. Terms used in this Act mean:

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

6 (2) "Eligible municipality," a municipality that had a lesser population in the most recent  
7 federal census than the municipality had in the next previous federal census;

8 (3) "New or expanded facility," a new economic development or business development  
9 project or an addition to an existing business or economic development facility if the  
10 project or facility is used for commercial or industrial purposes;

11 (4) "Project," the installation or construction of a new or expanded facility;

12 (5) "Project cost," the amount paid in money for a project;

13 (6) "Rural area," any area located outside the boundaries of a municipality;

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

15 Section 2. Any new or expanded facility that has a project cost greater than ten thousand  
16 dollars and less than two hundred fifty thousand dollars and is located in an eligible municipality



1 or in a rural area is eligible for a refund or credit for any contractor's excise tax imposed and paid  
2 pursuant to chapter 10-46A, 10-46B, or 10-46C.

3 Section 3. Any new or expanded facility that has a project cost greater than ten thousand  
4 dollars and less than two hundred fifty thousand dollars and is located in an eligible municipality  
5 or in a rural area is eligible for a refund or credit for any sales or use tax imposed and paid under  
6 the provisions of chapters 10-45 and 10-46 for the purchase or use of services, materials,  
7 supplies, or equipment used in the construction of a new facility or the expansion of an expanded  
8 facility.

9 Section 4. Any person may apply for and obtain a refund or credit for contractors' excise  
10 taxes and a refund for sales and use taxes as provided in sections 3 and 4 of this Act. The amount  
11 of the tax refund is one hundred percent of the contractor's excise taxes attributed to the project  
12 cost and one hundred percent of South Dakota sales and use taxes attributed to the project cost.  
13 The refunds pertain only to project costs incurred and paid after July 1, 2003. The refunds  
14 pertain only to project costs that were incurred and paid within twelve months of the approval  
15 of the application.

16 Section 5. Any person desiring to claim a refund pursuant to this Act shall apply for a permit  
17 from the secretary at least thirty days before commencement of the project. The application for  
18 a permit shall be submitted on a form prescribed by the secretary. A separate application shall  
19 be made and submitted for each project. Upon approval of the application, the secretary shall  
20 issue a permit entitling the applicant to submit refund claims as provided in this Act. The permit  
21 or refund claims are not assignable or transferable except as collateral or security pursuant to  
22 chapter 57A-9.

23 Section 6. Any claim for refund shall be submitted on forms prescribed by the secretary and  
24 shall be supported by such documentation as the secretary may require. The secretary may deny

1 any claim if the claimant has failed to provide information or documentation requested or  
2 considered necessary by the secretary to determine the validity of the claim.

3 Section 7. Any claim for refund shall be submitted to the department on or before the last day  
4 of the month following each quarterly period. The secretary shall determine the amount of the  
5 tax refund. Ninety percent of the amount of refund shall be paid to the claimant in accordance  
6 with §§ 10-59-22 and 10-59-23, and ten percent shall be withheld by the department. No interest  
7 may be paid on the refund amount. The amounts withheld by the department shall be retained  
8 until the project has been completed and the claimant has met all the conditions of this Act, at  
9 which time all sums retained shall be paid to the claimant.

10 Section 8. If any claim for refund has been fraudulently presented or supported as to any item  
11 in the claim, or if the claimant fails to meet all the conditions of this Act, the claim may be  
12 rejected in its entirety and all sums previously refunded to the claimant constitute a debt to the  
13 state and a lien in favor of the state upon all property and rights to property whether real or  
14 personal belonging to the claimant and may be recovered in an action of debt.

15 Section 9. Any person aggrieved by the denial in whole or in part of a refund claimed under  
16 this Act may, within thirty days after service of the notice of a denial by the secretary, demand  
17 and shall receive a hearing, upon notice, before the secretary. The hearing shall be conducted  
18 pursuant to chapter 1-26.

19 Section 10. The secretary shall promulgate rules, pursuant to chapter 1-26, to establish  
20 procedures for filing and processing refund claims and the requirements necessary to qualify for  
21 a refund.