

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

455J0396

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1074** - 01/23/2004

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

1 FOR AN ACT ENTITLED, An Act to prohibit the providing of false or misleading information
2 to the Public Utilities Commission and to provide a penalty therefor.

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

4 Section 1. That chapter 49-1 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 No person may knowingly provide false or misleading information to the commission in
7 response to, or in compliance with, any statute, order, tariff, rule, direction, demand, or
8 requirement of the commission. A violation of this section is a Class 1 misdemeanor. Each
9 separate act of providing false or misleading information pursuant to this section constitutes a
10 separate offense. This penalty is in addition to any other authorized penalties.



State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

733J0519

SENATE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1123 - 02/18/2004

Introduced by: Representatives Michels and Konold and Senators Knudson and Bogue

1 FOR AN ACT ENTITLED, An Act to authorize banks to be organized as limited liability
2 companies.

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

4 Section 1. That subdivision (1) of § 51A-1-2 be amended to read as follows:

5 (1) "Bank," any corporation or limited liability company, organized pursuant to chapter
6 47-34A, authorized under this title to engage in the business of banking or in the
7 combined business of a bank and trust company or in the combined business of a
8 bank with trust powers;

9 Section 2. That chapter 51A-3 be amended by adding thereto a NEW SECTION to read as
10 follows:

11 A bank may be organized as a limited liability company. The commission shall promulgate
12 rules pursuant to chapter 1-26, consistent with Title 51A, for the organization, management,
13 extension of its charter, and general administration of a bank that is organized as a limited
14 liability company. The rules shall facilitate the organization and capital structure, the offering
15 of trust business and the ability to develop branch bank and drive-in facilities, the offering of



1 remote service banking and bank services, the acceptance of deposits and the making of
2 investments, the offering of safe deposit and safe keeping protocols, the making of loans, the
3 reorganization of the limited liability company bank, and the operation of a bank organized as
4 a limited liability company to operate on an equal and parity basis with a bank organized as a
5 corporation.

6 Section 3. That § 10-43-10.1 be amended to read as follows:

7 10-43-10.1. Net income, in the case of a financial institution, is taxable income as defined
8 in the Internal Revenue Code, as amended, and in effect on January 1, 2003, and reportable for
9 federal income tax purposes for the taxable year, but subject to the adjustments as provided in
10 §§ 10-43-10.2 and 10-43-10.3. If a financial institution has elected to file its federal tax return
11 pursuant to 26 USC § 1362(a), as amended, and in effect on January 1, 1997, net income shall
12 be computed in the same manner and in the same amount as if that institution had continued to
13 file its federal tax return without making the election and the financial institution shall continue
14 to be treated as a separate corporation for the purposes of this chapter. If a financial institution
15 is organized as a limited liability company, the limited liability company shall be treated as a
16 separate corporation for the purpose of this chapter.

17 Section 4. That § 10-43-10.3 be amended by adding thereto a NEW SUBDIVISION to read
18 as follows:

19 For those financial institutions organized as limited liability companies, imputed federal
20 income taxes in an amount equal to the taxes that would have been paid on net income as
21 defined in § 10-43-10.1 had the financial institution elected to file as a subchapter C corporation
22 under the Internal Revenue Code.

23 Section 5. That § 47-34A-211 be amended to read as follows:

24

1 47-34A-211. (a) A limited liability company, and a foreign limited liability company
2 authorized to transact business in this state, except a bank organized pursuant to section 2 of this
3 Act, shall deliver to the secretary of state for filing an annual report that sets forth:

- 4 (1) The name of the company and the state or country under whose law it is organized;
- 5 (2) The address of its registered office and the name and address of its registered agent
6 for service of process in this state;
- 7 (3) The address of its principal office;
- 8 (4) The names and business addresses of any managers;
- 9 (5) The dollar amount of the total agreed contributions to the limited liability company.

10 (b) Information in an annual report must be current as of the date the annual report is signed
11 on behalf of the limited liability company.

12 (c) The first annual report must be delivered to the secretary of state concurrent with the
13 filing of the articles of organization. Subsequent annual reports must be delivered to the
14 secretary of state before the first day of the second month following the anniversary month of
15 the filing date.

16 (d) If an annual report does not contain the information required in subsection (a) or the fees
17 required by § 47-34A-212, the secretary of state shall promptly notify the reporting limited
18 liability company or foreign limited liability company and return the report to it for correction.
19 If the report is corrected to contain the information required in subsection (a) or the fees
20 required by § 47-34A-212 and delivered to the secretary of state within thirty days after the
21 effective date of the notice, it is timely filed.

22 Section 6. That § 51A-1-2 be amended by adding thereto NEW SUBDIVISIONS to read as
23 follows:

24 "Articles of incorporation," articles of incorporation for a bank organized by incorporators

1 as a corporation pursuant to chapters 47-2 to 47-9, inclusive, and articles of organization for a
2 bank organized by organizers or members as a limited liability company pursuant to chapter 47-
3 34A;

4 "By-laws," by-laws for a bank organized by incorporators as a corporation pursuant to
5 chapters 47-2 to 47-9, inclusive, and operating agreement for a bank organized by organizers
6 or members as a limited liability company pursuant to chapter 47-34A;

7 "Stockholder," a shareholder of a bank organized by incorporators as a corporation pursuant
8 to chapters 47-2 to 47-9, inclusive, and a member for a bank organized by organizers or
9 members as a member as a limited liability company pursuant to chapter 47-34A;

10 "Board of directors," board of directors for a bank organized by incorporators as a
11 corporation pursuant to chapters 47-2 to 47-9, inclusive, and a manager for a manager-managed
12 bank or a member for a member-managed bank organized as a limited liability company
13 pursuant to chapter 47-34A;

14 "Stock," shares for a bank organized by incorporators as a corporation pursuant to chapters
15 47-2 to 47-9, inclusive, and member equity for a bank organized as a limited liability company
16 pursuant to chapter 47-34A;

17 "Dividends," distributions for a corporation organized by incorporators as a corporation
18 pursuant to chapters 47-2 to 47-9, inclusive, and distributions for a bank organized by organizers
19 or members as a limited liability company pursuant to chapter 47-34A.

20 Section 7. That § 51A-3-2 be amended to read as follows:

21 51A-3-2. ~~The~~ For a bank organized as a corporation, the articles of incorporation of a bank
22 ~~corporation~~ shall state, and for a bank organized as a limited liability company, the articles of
23 organization of a bank shall state:

24 (1) That the corporation or limited liability company is formed for the purpose of

1 engaging in the business of banking, or as a bank and trust company, or as a bank and
2 trust department;

3 (2) The period for which such corporation or limited liability company is organized, not
4 exceeding twenty years.

5 The name of such bank shall be different from the name of any other bank or trust company
6 in the county of its place of business. ~~Its~~ The capital stock of a bank organized as a corporation
7 shall be divided into shares of not less than ten nor more than one hundred dollars each. The
8 members' equity of a bank organized as a limited liability company shall be divided into units
9 of not less than ten nor more than one hundred dollars each.

10 Section 8. That § 51A-3-5 be amended to read as follows:

11 51A-3-5. ~~The~~ For a bank organized as a corporation, the original issue of bank stock, and
12 for a bank organized as a limited liability company, the original issue of members' equity, shall
13 be sold at a price of not less than twenty percent in excess of its par value and paid for in full
14 in lawful money of the United States. The excess over the par value shall be credited on the
15 books of the bank to the surplus.

16 Section 9. That § 51A-3-6 be amended to read as follows:

17 51A-3-6. One-tenth of the net profit for any dividend period shall be carried to the surplus
18 fund until such fund shall amount to twenty percent of the capital stock or members' equity. Any
19 losses sustained in excess of undivided profits may be charged to the surplus account, but no
20 dividends shall thereafter be declared or paid until the surplus fund shall amount to twenty
21 percent of the capital stock or members' equity.

22 Section 10. That § 51A-5-6 be amended to read as follows:

23 51A-5-6. It is lawful for any national bank to engage in trust business in this state to the
24 extent authorized by the laws of the United States, without incorporating or organizing under

1 the laws of this state, but ~~they~~ a national bank shall otherwise comply with and be subject to all
2 laws of this state which are applicable to state banks engaged in trust business including such
3 examinations as may be deemed necessary, except that the authority of the commission and the
4 director shall apply to their trust business only. The director may accept in lieu of an
5 examination conducted under ~~his~~ the director's direction, any report of examination conducted
6 by the appropriate federal regulatory agency.

7 Section 11. That § 51A-12-2 be amended to read as follows:

8 51A-12-2. Except as otherwise provided in this title, no bank organized as a corporation or
9 limited liability company may loan, or otherwise extend credit, to any corporation, partnership,
10 or individual, an amount greater than the sum of:

11 (1) Twenty percent of its capital stock or members' equity and surplus; and

12 (2) Ten percent of its undivided profit.

13 Such limit shall be determined for each calendar quarter on the basis of the bank's quarterly
14 report of condition for the immediately previous calendar quarter.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

535J0093

SENATE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1158 - 02/18/2004

Introduced by: Representatives Cutler, Craddock, Garnos, Gillespie, Hennies, Michels, Murschel, Rounds, Schafer, and Van Gerpen and Senators Sutton (Dan), Abdallah, Albers, Duniphan, Earley, Ham-Burr, Moore, and Vitter

1 FOR AN ACT ENTITLED, An Act to prohibit the taking of certain pictures of another without
2 that person's consent and to provide a penalty therefor.

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

4 Section 1. No person may use a concealed camcorder, motion picture camera, or
5 photographic camera of any type, to secretly videotape, film, photograph, or record by electronic
6 means, any other person without clothing, or any other person under or through the clothing
7 being worn by that other person, for the purpose of viewing the body of, or the undergarments
8 worn by, that other person, without the consent or knowledge of that other person, with the
9 intent to arouse, appeal to, or gratify the lust, passions, or sexual desires of that person and
10 invade the privacy of that other person, under circumstances in which the other person has a
11 reasonable expectation of privacy. A violation of this section is a Class 1 misdemeanor.



State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

348J0574

HOUSE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **HB 1183** - 02/05/2004

Introduced by: Representatives Novstrup, Kraus, LaRue, McCaulley, Rhoden, and Weems
and Senator Sutton (Duane)

1 FOR AN ACT ENTITLED, An Act to provide the temporary replacement of any elected official
2 incapacitated by illness or accident.

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

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

6 If any member of a governing body of a county, municipality, school district, township, or
7 special purpose district, who is incapacitated by illness or an accident which causes the member
8 to be unable to attend meetings of the governing body, the member may elect to temporarily
9 resign from the governing body. Notice of temporary resignation may be given in the same
10 manner as giving notice of resignation from such governing body. If the member is unable to
11 give notice, the member's spouse or guardian or any person who has durable power of attorney
12 for the member may give notice of resignation from such governing body. A temporary
13 replacement may be made in accordance with the provisions of statute applying to the governing
14 body. The temporary member shall serve until the member is able to fulfill the requirements of
15 office or until the expiration of the member's term, whichever occurs first.



State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

490J0422

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1184 - 02/06/2004

Introduced by: Representatives Novstrup, Elliott, Hackl, Kraus, LaRue, McCaulley, Rhoden,
and Weems and Senators Dennert and Kelly

1 FOR AN ACT ENTITLED, An Act to authorize a payor to make a deduction for transmitting
2 an amount of an obligor's income pursuant to a child support order for withholding.

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

4 Section 1. That § 25-7A-34 be amended to read as follows:

5 25-7A-34. Any payor who has been served with an order for withholding of income shall
6 deduct and pay over income or assets as provided in this section. The payor shall deduct the
7 amount designated in the order for withholding. The first payment shall be deducted from the
8 payment of income which is payable to the obligor following service of the order. The payor
9 shall transmit the amount withheld to the department in accordance with the order for
10 withholding within seven business days after the date the obligor is paid or ~~his~~ the obligor's
11 property withheld and in accordance with any subsequent notification received from the
12 department redirecting payment. In addition to the amount designated in the order for
13 withholding, the payor may deduct an amount not to exceed three dollars per month from the
14 obligor's income to cover the expenses involved in transmitting the amount withheld.



State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

457J0098

HOUSE ENGROSSED NO. **HB 1201** - 02/05/2004

Introduced by: Representatives Williamson and Murschel and Senator Kelly

1 FOR AN ACT ENTITLED, An Act to authorize the issuance of revenue bonds to finance
2 certain water pipelines or aqueducts.

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

4 Section 1. That § 46A-1-72 be amended to read as follows:

5 46A-1-72. Construction of a ~~West River pipeline or aqueduct from the Oahe~~ a mainstream
6 Missouri reservoir, the Missouri River itself, or adjacent aquifers ~~to the border with Wyoming~~
7 one or more communities in South Dakota is hereby authorized for a main delivery pipeline
8 capable of delivering ~~approximately twenty-seven thousand acre-feet of water per year with up~~
9 ~~to approximately seven thousand acre-feet to be available for use in western South Dakota and~~
10 ~~the balance into Wyoming~~ water sufficient to supply or supplement the needs of the
11 communities and other private or commercial users purchasing water from the communities.

12 Section 2. That § 46A-1-73 be amended to read as follows:

13 46A-1-73. The South Dakota Conservancy District is hereby authorized to issue bonds for
14 ~~the West River aqueduct pipelines or aqueducts pursuant to section 1 of this Act~~ in an amount
15 not to exceed ~~three hundred fifty~~ five hundred million dollars. ~~However, no single pipeline or~~
16 ~~aqueduct project may exceed an amount of seventy-five million dollars.~~ The district may enter



1 into a financing agreement to loan the proceeds of the bonds as authorized by law. The financing
2 agreement shall provide for repayment of the loan through payments sufficient to pay the
3 principal of, premium, if any, and interest on the bonds. The loan shall be secured by ~~take or pay~~
4 contracts for the ~~transportation of coal~~ delivery and sale of water and such additional security
5 as is necessary for repayment and to market the bonds. The bonds ~~shall do~~ not constitute an
6 indebtedness of the state and ~~shall do~~ not constitute nor give rise to a pecuniary or moral liability
7 of the state or a charge against its general credit or taxing powers. No tax revenues of the state,
8 its people, or any of its political subdivisions ~~shall may~~ be in any manner obligated to pay for
9 any portion of the construction or financing of the ~~West River pipeline or~~ aqueduct.

10 Section 3. That § 46A-1-74 be repealed.

11 ~~46A-1-74. The South Dakota Conservancy District is hereby authorized to contract, without~~
12 ~~using state tax revenues, for an independent market study to determine the demand for water~~
13 ~~from the West River Aqueduct.~~

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

761J0587

SENATE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1202** - 02/13/2004

Introduced by: Representatives Peterson (Bill) and Olson (Mel) and Senators Brown, Bogue, Ham-Burr, and Moore

1 FOR AN ACT ENTITLED, An Act to create a task force to study state and local government.

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

3 Section 1. There is hereby created a task force to study the roles of state and local
4 government in the state. The task force shall review the responsibilities assigned by the
5 Constitution and state law to state, county, and municipal governments and to school districts.
6 The task force shall review the functions that have been implemented by these entities of
7 government to fulfill their assigned responsibilities. The task force shall review the funding
8 sources that are available to each of these entities to perform their assigned responsibilities. The
9 task force shall identify any unfunded mandates that have been place on any of these entities and
10 shall explore options to provide for the funding of the mandates or for the elimination of the
11 mandates. The task force shall explore areas where intergovernmental cooperation may be
12 fostered in the future. The task force shall explore areas where governmental responsibilities
13 may be revised to improve the services provided by state and local governments to the citizens
14 of the state.

15 Section 2. The state and local government task force shall consist of twenty-two members.



1 The Governor shall appoint the following members:

2 (1) Three representing county government, no more than two of whom may be from one
3 political party;

4 (2) Three representing municipal government, no more than two of whom may be from
5 one political party;

6 (3) Three representing school districts, no more than two of whom may be from one
7 political party;

8 (4) Three faculty members of a university or college political science department, no
9 more than two of whom may be from one political party; and

10 (5) Six members of the general public, no more than four of whom may be from one
11 political party.

12 In addition, the president pro tempore of the Senate shall appoint two members of the
13 Senate, one from each party; and the speaker of the House of Representatives shall appoint two
14 members of the House of Representatives, one from each party. The Governor shall select the
15 chair of the task force.

16 Section 3. The task force shall meet in 2004 and 2005. The task force may hold meetings
17 and hearings at times and places as it may designate. The task force shall report its findings and
18 recommendations to the Legislature at its regular session in 2006.

19 Section 4. The Legislative Research Council shall serve as staff to the task force.

20 Section 5. The members of the task force shall be compensated in the same manner as
21 members of an interim committee.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

337J0082

SENATE HEALTH AND HUMAN SERVICES
COMMITTEE ENGROSSED NO. **HB 1228** -
02/18/2004

Introduced by: Representatives Haverly, Christensen, Craddock, Cutler, Glenski, Hunhoff, Madsen, Michels, Miles, Murschel, Novstrup, O'Brien, Rave, and Sebert and Senators Olson (Ed) and Knudson

1 FOR AN ACT ENTITLED, An Act to provide for interstate contracts for the treatment of
2 individuals with mental illness or chemical dependency and to declare an emergency.

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

4 Section 1. Terms in this Act mean:

- 5 (1) "Bordering state," Iowa, Minnesota, Montana, Nebraska, North Dakota, or Wyoming;
6 (2) "Treatment facility," an accredited prevention or treatment facility as defined in § 34-
7 20A-2 or an inpatient psychiatric facility as defined in § 27A-1-1.

8 Section 2. A bordering state or governmental entity of a bordering state may contract with
9 any appropriate treatment facility in South Dakota for the treatment of mental illness or
10 chemical dependency for residents of the bordering state. However, any such contract shall
11 conform to the requirements of this Act.

12 Section 3. No contract may be entered into under this Act for treatment to any person who:

- 13 (1) Is serving a sentence after conviction of a criminal offense;
14 (2) Is on probation or parole; or



1 (3) Is the subject of a presentence investigation.

2 Section 4. Any contract entered into under this Act between a bordering state or
3 governmental entity of a bordering state and a South Dakota treatment facility shall, at a
4 minimum:

5 (1) Describe the services to be provided;

6 (2) Establish responsibility for the costs of services;

7 (3) Establish responsibility for the costs of transporting individuals receiving services
8 under this Act;

9 (4) Establish responsibility for the transportation of individuals under this Act;

10 (5) Specify the duration of the contract;

11 (6) Specify the means of terminating the contract;

12 (7) Specify the terms and conditions for refusal to admit or retain an individual; and

13 (8) Identify the goals to be accomplished by the placement of an individual under this
14 Act.

15 Section 5. Any treatment facility in South Dakota may enter negotiations with appropriate
16 personnel of a bordering state to develop a contract that conforms to the requirements of this
17 Act. A contract with a bordering state shall enable the temporary placement in South Dakota by
18 a bordering state of a person who is on an emergency hold or who has been involuntarily
19 committed as mentally ill or chemically dependent as determined by the bordering state. Any
20 person committed by a bordering state or on emergency hold from a bordering state and who
21 is placed in a South Dakota facility continues to be in the legal custody of the bordering state
22 and shall be returned to the bordering state prior to release from emergency hold or involuntary
23 commitment. The bordering state's laws governing commitment criteria, length of commitment,
24 hearings, reexaminations, and extension of commitment continue to apply to these bordering

1 state residents. The State of South Dakota is not responsible for treatment costs, legal
2 proceeding costs, or transportation costs. In all other aspects, a resident of a bordering state
3 placed in a South Dakota facility is subject to the laws of South Dakota. A contract under this
4 Act with a bordering state or bordering state governmental entity shall specify that responsibility
5 for payment for the cost of care and transportation for persons under this Act remains with the
6 contracting entity of the bordering state of which that person is a resident.

7 Section 6. No person placed in South Dakota from a bordering state under this Act may be
8 placed or transferred to the South Dakota Human Services Center.

9 Section 7. Whereas, this Act is necessary for the immediate preservation of the public peace,
10 health, or safety, an emergency is hereby declared to exist, and this Act shall be in full force and
11 effect from and after its passage and approval.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

177J0117

HOUSE TRANSPORTATION COMMITTEE

ENGROSSED NO. **HB 1248** - 02/07/2004

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

Introduced by: Representatives Rounds, Olson (Ryan), and Pederson (Gordon) and Senators de Hueck and Koskan

1 FOR AN ACT ENTITLED, An Act to permit counties, in the absence of an organized township,
2 to maintain, and improve certain public rights-of-way.

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

4 Section 1. That § 31-13-51 be amended to read as follows:

5 31-13-51. The township board of supervisors or, in the case of any township which is no
6 longer organized, the board of county commissioners, prior to the assessment of real property
7 within the township for the next fiscal year, may levy annually for the purpose of maintaining
8 or repairing street surfaces, whether of a permanent type or not, a special front foot assessment
9 not to exceed eighty cents per front foot upon the real property fronting and abutting the
10 roadway. Such assessment shall be apportioned on a front foot basis and shall be levied pursuant
11 to § 31-13-52.



State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

708J0728

HOUSE TAXATION COMMITTEE ENGROSSED NO.

HB 1281 - 02/10/2004

Introduced by: Representative Cradduck and Senator Jaspers

1 FOR AN ACT ENTITLED, An Act to provide for certain property tax exemptions for business
2 incubators owned by nonprofits.

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

4 Section 1. That chapter 10-4 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Any business incubator owned or leased and operated by a local economic development
7 organization is eligible for an exemption from certain property taxes as provided in this section.

8 The governing body of the county, municipality, school district, township, or any other political
9 subdivision of this state in which the property is located may approve a tax exemption by
10 resolution after a determination of eligibility, public notice, and a hearing. If any governing body
11 intends to grant more than one exemption for business incubators, the governing body shall
12 adopt a separate resolution for each business incubator within its jurisdiction. No governing
13 body may grant approval for the business incubator until all of the applicant's taxes have been
14 paid in full. If the property is leased to a business incubator, no governing body may grant
15 approval until all of the owner's property taxes on that property have been paid in full. Payment



1 of taxes under protest does not preclude approval. Prior to holding the hearing, the governing
2 body shall determine that the local economic development organization:

- 3 (1) Is a private, nonprofit corporation and is exempt from taxation pursuant to section
4 501(c)(3), 501(c)(4), or 501(c)(6) of the Internal Revenue Code as of January 1,
5 2004;
- 6 (2) Is engaged in economic development and business assistance work in the area; and
- 7 (3) Owns and operates or will operate the business incubator.

8 The tax exemption described in this section applies only to the taxes levied by the governing
9 body approving the exemption over which the governing body has the ability to levy a property
10 tax upon.

11 Section 2. That § 13-13-20.4 be amended to read as follows:

12 13-13-20.4. The actual assessed valuation of any property given a reduced valuation
13 pursuant to §§ 10-6-35.1, 10-6-35.2, 10-6-35.4, 10-6-35.21, 10-6-35.22, 10-6-35.24, 10-6-35.25,
14 10-6-54, 10-6-55, 10-6-66, and 10-6-67 shall be used when calculating state aid to education.
15 For any property given a reduced valuation after November 1995, pursuant to §§ 10-6-35.1,
16 10-6-35.2, 10-6-35.4, 10-6-35.21, 10-6-35.22, 10-6-35.24, 10-6-35.25, 10-6-54, 10-6-55,
17 10-6-66, and 10-6-67 that has not previously received a reduced valuation pursuant to these
18 statutes, the portion of actual assessed valuation of the property used when calculating state aid
19 to education shall be twenty percent in the first year, forty percent in the second year, sixty
20 percent in the third year, eighty percent in the fourth year, and one hundred percent each year
21 thereafter. In addition, the actual assessed valuation of any property given exempt status
22 pursuant to section 1 of this Act shall be used when calculating state aid to education.

23 Section 3. That § 10-12-44 be amended to read as follows:

24 10-12-44. The county auditor in each school district shall raise additional revenue, for the

1 general fund and special education funds, from property taxes to compensate for tax abatement,
2 tax increment financing district, or discretionary formula as follows:

3 (1) For tax incremental districts created pursuant to chapter 11-9 and formed after
4 December 31, 1994, the county auditor shall levy an additional tax levy for an
5 amount not to exceed an amount equal to the sum of the levies in §§ 10-12-42 and
6 13-37-16 times the tax increment valuation as defined in § 11-9-1;

7 (2) For property subject to § 10-6-35.2, 10-6-35.12, 10-6-35.24, 10-6-35.25, 10-6-54,
8 10-6-55, or 10-6-67 the county auditor shall levy an additional tax levy for an amount
9 not to exceed the amount of taxes that were not collected due to the reduction in
10 valuation based on the maximum levies pursuant to §§ 10-12-42 and 13-37-16;

11 (3) For abated taxes the county auditor shall levy an additional tax levy for an amount
12 not to exceed the amount of the school district's portion of the taxes that were abated
13 pursuant to chapter 10-18 during the previous tax year;

14 (4) For properties given exempt status pursuant to section 1 of this Act.

15 The levies in this section are not subject to the referendum provision of § 10-12-43 and these
16 levies shall maintain the same proportion to each other as represented in the mathematical
17 relationship at the maximum levies pursuant to § 10-12-42.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

555J0505

HOUSE TAXATION COMMITTEE ENGROSSED NO.

HB 1283 - 02/10/2004

Introduced by: Representatives Weems, Cutler, Hundstad, Lange, Novstrup, Peterson (Jim),
Schafer, Sigdestad, Thompson, Van Etten, and Van Gerpen and Senators de
Hueck, Greenfield, Kloucek, Kooistra, Moore, Schoenbeck, and Sutton (Dan)

1 FOR AN ACT ENTITLED, An Act to exempt certain purchases of material used in the
2 production of greenhouse, nursery, and ornamental plants from sales and use taxes.

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

4 Section 1. That chapter 10-45 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 The purchase of any fertilizer, growth regulator, soil, container, and plant shine that is
7 directly used in the production of greenhouse, nursery, and ornamental plants intended to be sold
8 ultimately at retail within or without the State of South Dakota is hereby specifically exempted
9 from the tax imposed by chapter 10-45.

10 Section 2. That chapter 10-46 be amended by adding thereto a NEW SECTION to read as
11 follows:

12 The use in this state of any fertilizer, growth regulators, soil, containers, and plant shine
13 directly used in the production of greenhouse, nursery, and ornamental plants intended to be sold
14 ultimately at retail within or without the State of South Dakota is hereby specifically exempted



1 from the tax imposed by chapter 10-46.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

400J0354

HOUSE COMMERCE COMMITTEE ENGROSSED NO.

SB 37 - 02/12/2004

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

1 FOR AN ACT ENTITLED, An Act to provide for the filing and usage of certain property
2 casualty rates and to exempt certain size risks from rate and form approval.

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

4 Section 1. For the purposes of this Act, the term, exempt commercial policyholder, means
5 any person who applies for or procures any kind of property casualty insurance, except title or
6 workers' compensation insurance, through the use of a risk manager employed or retained by
7 such person, and meets at least two of the following qualifications:

- 8 (1) Has purchased the insurance with aggregate premiums in the sum of at least one
9 hundred thousand dollars during the most recently completed calendar year;
- 10 (2) Has a net worth of at least ten million dollars as reported in the policyholder's most
11 recently issued financial statement, reviewed or audited by an independent certified
12 public accountant;
- 13 (3) Has annual net revenues or net sales of at least ten million dollars as reported in the
14 policyholder's most recently issued financial statement, reviewed or audited by an
15 independent certified public accountant;



- 1 (4) Employs at least one hundred full-time employees, either individually or, if the
2 policyholder is a member of an affiliated group, collectively with all members of the
3 affiliated group;
- 4 (5) Has, if the policyholder is a nonprofit organization, an annual operating budget of at
5 least two million five hundred thousand dollars for the most recently completed
6 calendar or fiscal year, whichever applies;
- 7 (6) Has, if the policyholder is a public entity, an operating budget of at least ten million
8 dollars for the most recently completed calendar or fiscal year, whichever applies; or
- 9 (7) Has, if the policyholder is a municipality, a population of at least twenty thousand.

10 Section 2. For the purposes of this Act, the term, risk manager, means an employee of the
11 exempt commercial policyholder, or a third-party consultant retained by the policyholder who
12 provides skilled services in loss prevention, loss reduction, or risk and insurance coverage
13 analysis, and the purchase of insurance, and who possesses at least one of the following
14 credentials:

- 15 (1) A bachelor's or higher degree in risk management issued by an accredited college or
16 university;
- 17 (2) A designation as a chartered property and casualty underwriter issued by the
18 American Institute for Chartered Property and Casualty Underwriters and Insurance
19 Institute of America;
- 20 (3) A designation as an associate in risk management issued by the American Institute
21 for Chartered Property and Casualty Underwriters and Insurance Institute of
22 America;
- 23 (4) A designation as a certified risk manager issued by the National Alliance for
24 Insurance Education and Research;

- 1 (5) A designation as a fellow in risk management or RIMS fellow issued by the Global
- 2 Risk Management Institute; or
- 3 (6) At least seven years of experience in one or more of the following areas of
- 4 commercial property and casualty insurance:
- 5 (a) Risk financing;
- 6 (b) Claims administration;
- 7 (c) Loss prevention; or
- 8 (d) Risk and insurance coverage analysis.

9 Section 3. That chapter 58-24 be amended by adding thereto a NEW SECTION to read as
10 follows:

11 An insurer issuing a policy to an exempt commercial policyholder is exempt, except as
12 provided for in this Act, from the rate filing requirements of chapter 58-24 and the form filing
13 requirements of § 58-11-12. At the time of soliciting an exempt commercial policyholder to
14 purchase insurance, the insurance producer, or the insurer in the case of a direct procurement
15 from the insurer, shall disclose to the policyholder and the policyholder's risk manager, on a
16 form created by the insurer, that a premium or rate may be quoted or a policy form may be used
17 that is not subject to the rate and form filing requirements of the Division of Insurance.

18 Section 4. That chapter 58-24 be amended by adding thereto a NEW SECTION to read as
19 follows:

20 If a third-party consultant is retained by the exempt commercial policyholder to act as the
21 policyholder's risk manager when a quote for insurance is delivered to the policyholder, the
22 consultant shall disclose, in writing, the existence of any commission, fee, or contingency
23 arrangement the third-party consultant has with the insurer.

24 Section 5. That chapter 58-24 be amended by adding thereto a NEW SECTION to read as

1 follows:

2 The director may promulgate rules, pursuant to chapter 1-26, to carry out the provisions of
3 this Act to ensure that insurers make policyholders aware of their exempt status and that insurers
4 keep separate records of exempt policies. The rules may include certification, record keeping,
5 and notices.

6 Section 6. That chapter 58-24 be amended by adding thereto a NEW SECTION to read as
7 follows:

8 The insurer shall maintain copies of the disclosures required by this Act. The copies are
9 subject to examination. The insurer shall provide the copies to the division upon request as
10 provided by this title.

11 Section 7. That chapter 58-24 be amended by adding thereto a NEW SECTION to read as
12 follows:

13 Any insurer who sells any kind of insurance to an exempt commercial policyholder shall
14 maintain records relating to the insurance sales as required by this Act. At a minimum, the
15 records shall include: any data, statistics, rates, rating plans, rating systems, and underwriting
16 rules used in underwriting and issuing such policies; claims-made policy forms; annual
17 experience data on each risk insured, including written premiums, written premiums at a manual
18 rate, paid losses, outstanding losses, loss adjustment expenses, underwriting expenses,
19 underwriting profits, and profits from contingencies; and complaint information required under
20 South Dakota law.

21 The insurer shall maintain the records for five years. The insurer shall make such records
22 available for examination by the director at any reasonable hour.

23 Section 8. That § 58-24-10 be amended to read as follows:

24 58-24-10. Every insurer shall file with the director of the Division of Insurance every

1 manual, minimum, class rate, rating schedule, or rating plan and every other rating rule, and
2 every modification of any of the foregoing which it proposes to use. Every such filing shall state
3 the proposed effective date thereof, and shall indicate the character and extent of the coverage
4 contemplated. The filing date is the effective date thereof unless the insurer proposes an
5 effective date subsequent to the filing date.

6 This section does not apply to:

- 7 (1) Inland marine risks which by general custom of the business are not written
8 according to manual rates or rating plans; or
9 (2) Automobile and other motor vehicle insurance subject to § 58-24-10.1.

10 Section 9. That § 58-24-11 be repealed.

11 ~~58-24-11. Under the rules as the director shall adopt, the director may, by written order,~~
12 ~~suspend or modify the requirement of filing as to any kind of insurance, subdivision, or~~
13 ~~combination thereof, or as to classes of risks, the rates for which cannot practicably be filed~~
14 ~~before they are used. Such orders or rules shall be made known to insurers and rating~~
15 ~~organizations affected thereby. The director may make such examination as he may deem~~
16 ~~advisable to ascertain whether any rates affected by such order meet the standards set forth in~~
17 ~~§ 58-24-6.~~

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

400J0233

HOUSE EDUCATION COMMITTEE ENGROSSED NO. **SB 50** - 02/12/2004

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

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the amount of time
2 graduating seniors may be released prior to the end of school.

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

4 Section 1. That § 13-26-2 be amended to read as follows:

5 13-26-2. The school board or governing body shall operate grades one through twelve in its
6 schools for at least a nine-month regular term in any one school year. The regular school term
7 may be conducted on a year-round basis and shall begin on a date established by the school
8 board. The Board of Education shall promulgate rules pursuant to chapter 1-26 governing the
9 operation and scheduling of year-round schools. Any school board or governing body may
10 release graduating high school seniors from school before the end of the regular term ~~if the~~
11 ~~release is for no more than three school days.~~ Make up time for school closing because of
12 weather, disease, or emergency need not exceed ten school days. Graduating seniors are excused
13 from make up time if the make up time occurs after the students have graduated or after
14 graduation exercises have been held. If classes have been convened and then are dismissed, or
15 if classes convene at a time later in the day than normal, because of inclement weather, that day



1 constitutes a school day in session equal to the number of hours planned for that day as
2 established in the local school district calendar for the year.

3 School boards are encouraged to provide time within the regular school term for curriculum
4 and staff development which shall be in addition to the time required in this section. Each
5 school board shall determine the appropriate amount of time for this activity and how best to
6 use the time based on local needs for program development, increased parent participation,
7 student contact, teachers' preparation, or other needs of the schools in the district. School ~~shall~~
8 ~~be~~ is in session only when classes are held and as provided in §§ 13-26-4 and 13-26-4.1. A
9 school board may operate a special term during the summer months.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

400J0331

HOUSE ENGROSSED NO. **SB 51** - 02/18/2004

Introduced by: The Committee on Health and Human Services at the request of the
Department of Human Services

1 FOR AN ACT ENTITLED, An Act to create the South Dakota Certification Board for Alcohol
2 and Drug Professionals and to provide for its powers and duties.

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

4 Section 1. Terms used in this Act mean:

5 (1) "Board," the South Dakota Certification Board for Alcohol and Drug Professionals;
6 and

7 (2) "Practitioner," a person certified under this Act in the practice of chemical
8 dependency counseling or prevention services who holds himself or herself out to the
9 public by any title or description of services which uses the words certified chemical
10 dependency counselor or certified prevention specialist or derivatives thereof.

11 Section 2. That § 36-32-11 be amended to read as follows:

12 36-32-11. No person may represent himself or herself as a licensed or certified chemical
13 dependency counselor (CCDC) or certified prevention specialist unless ~~he~~ the person is certified
14 by the South Dakota ~~Chemical Dependency Counselor~~ Certification Board for Alcohol and Drug
15 Professionals.



1 Section 3. There is hereby created the South Dakota Certification Board for Alcohol and
2 Drug Professionals that consists of nine members. One member shall be a lay member and
3 resident of the state; one member shall be an educator from an addiction studies postsecondary
4 education program; four members shall be certified chemical dependency counselors in active
5 practice within the state and broadly representing a cross section of the profession of chemical
6 dependency counseling; one member shall be a certified prevention specialist; one member shall
7 be an attorney licensed to practice law in the State of South Dakota; and one member shall be
8 a certified practitioner who is an enrolled member of a tribe. This board replaces the functions
9 previously performed by the South Dakota Chemical Dependency Counselor Certification
10 Board, a private nonprofit entity doing business as the Certification Board for Alcohol and Drug
11 Professionals.

12 Section 4. The Governor shall appoint the members to the board. Initial appointments to the
13 board shall be staggered for terms of one, two, and three years, with three members appointed
14 for one year, three members appointed for two years, and three members appointed for three
15 years. Thereafter, appointments shall be for terms of three years beginning on the first day of
16 July.

17 Section 5. The Governor may remove any member of the board for cause. If there is a
18 vacancy on the board caused by the death, resignation, removal from the state of any member,
19 or for any other reason, the Governor shall appoint a new member to serve the unexpired term.
20 No member of the board may serve for more than two successive full terms.

21 Section 6. The initial meeting of the board shall occur at Pierre, South Dakota, within one
22 month after the appointment of the ninth member. The board shall elect a chair, vice-chair, and
23 a secretary-treasurer from its members. Thereafter the board shall elect officers annually. The
24 board shall meet at least once a year at a place and time determined by the chair. However, a

1 majority of the board may call a meeting without the assent of the chair.

2 Section 7. The secretary of the board shall provide for taking and keeping the minutes of all
3 board meetings.

4 Section 8. A majority of board members constitutes a quorum. A majority vote of those
5 present constitutes a decision of the entire board.

6 Section 9. The board is within the Department of Human Services. The department shall
7 provide all administrative functions other than those of the board member serving as secretary.
8 The expenses of the department shall be paid from the account established in section 10 of this
9 Act, on vouchers approved by the secretary of human services. The board shall submit an annual
10 report and such records, information, and reports in the form and at such times as required by
11 the secretary of human services.

12 Section 10. The board may accept any funds which may be made available to it from any
13 source. All funds received by the board shall be paid to the state treasurer on or before the tenth
14 day of the next month. The state treasurer shall keep the money in a separate account for the
15 board. The money in that account is continuously appropriated to the board for administering
16 and enforcing this Act. The board may expend funds for administrative, consultant, secretarial,
17 clerical, and stenographic services for the board. No expense may be incurred by the board
18 exceeding the total money collected by the board under the provisions of this Act. The board
19 shall transfer preexisting funds of the South Dakota Chemical Dependency Counselor
20 Certification Board the entity doing business as the Certification Board for Alcohol and Drug
21 Professionals into the account established in this Act.

22 Section 11. The board members shall be paid pursuant to § 3-9-2.

23 Section 12. No member of the board is civilly liable for any act taken while acting within
24 the scope of the member's official duties as a board member.

1 Section 13. The board shall:

- 2 (1) Through its policies and activities, and by rules promulgated pursuant to chapter 1-
3 26, establish standards for, and promote, the qualified practice of chemical
4 dependency prevention and counseling services;
- 5 (2) Be responsible for all disciplinary proceedings under this Act;
- 6 (3) Establish, by rules promulgated pursuant to chapter 1-26, educational, training and
7 competency, and ethical standards governing the examination and practice of
8 practitioners under this Act;
- 9 (4) Examine, or cause to be examined, for competency, eligible applicants, for
10 certification to practice chemical dependency prevention and counseling services;
- 11 (5) Issue certificates to those applicants who successfully complete the certification
12 requirements and renew the certifications of those practitioners who continue to meet
13 the certification standards of this Act;
- 14 (6) Register, pursuant to rules promulgated pursuant to chapter 1-26, those applicants
15 who successfully complete the certification requirements; and
- 16 (7) Establish and collect, pursuant to rules promulgated pursuant to chapter 1-26, fees
17 for certification, registration, examination, continuing education, certificate renewal,
18 and reinstatement.

19 Section 14. The board may promulgate rules, pursuant to chapter 1-26, to provide fees for
20 all examinations, certifications, recognitions, renewals, services, and charges authorized by this
21 Act. The fees may not exceed the following maximums:

- 22 (1) Application materials or portfolio reviews, twenty-five dollars;
- 23 (2) Chemical dependency counselor certification application and examination fee, two
24 hundred fifty dollars;

- 1 (3) Chemical dependency counselor certification retest fee, two hundred dollars;
- 2 (4) Chemical dependency counselor certification renewal fee, one hundred fifty dollars;
- 3 (5) Chemical dependency counselor certification level upgrade, one hundred fifty
- 4 dollars;
- 5 (6) Chemical dependency counselor replacement or duplicate certificate, fifteen dollars;
- 6 (7) Chemical dependency counselor certification replacement card, five dollars;
- 7 (8) Chemical dependency counselor trainee recognition fee, one hundred fifty dollars;
- 8 (9) Chemical dependency counselor trainee renewal fee, one hundred dollars;
- 9 (10) Chemical dependency counselor trainee replacement or duplicate certificate fee,
- 10 fifteen dollars;
- 11 (11) Prevention specialist certification application and examination fee, two hundred fifty
- 12 dollars;
- 13 (12) Prevention specialist certification retest fee, two hundred dollars;
- 14 (13) Prevention specialist certification renewal fee, one hundred fifty dollars;
- 15 (14) Prevention specialist replacement or duplicate certificate, fifteen dollars;
- 16 (15) Prevention specialist certification replacement card, five dollars;
- 17 (16) Prevention specialist trainee recognition fee, one hundred fifty dollars;
- 18 (17) Prevention specialist trainee renewal fee, one hundred dollars;
- 19 (18) Prevention specialist trainee replacement or duplicate certificate fee, fifteen dollars;
- 20 (19) Trainee intern certificate, twenty-five dollars;
- 21 (20) Trainee intern replacement certificate, fifteen dollars;
- 22 (21) Registration as a continuing education provider, twenty-five dollars; and
- 23 (22) Mailing labels charge, one hundred dollars.

24 Section 15. A chemical dependency counselor trainee may perform chemical dependency

1 counseling services so long as the trainee is working under the supervision of a certified
2 chemical dependency counselor.

3 Section 16. A prevention specialist trainee may perform prevention services so long as the
4 trainee is working under the supervision of a certified prevention specialist or certified chemical
5 dependency counselor, level II or III.

6 Section 17. The board may use its own staff or employ certified chemical dependency
7 counselors, certified prevention specialists, agents, or investigators to assist in the enforcement
8 of this Act or any rule promulgated by the board. Any person violating the provisions of this Act
9 may be enjoined from further violations by an action brought by the state's attorney of the
10 county where the violations occurred or by an action brought by any citizen in the state. The
11 attorney general, the board, or the state's attorney may apply to the circuit court for the county
12 in which a violation of this Act is alleged to have occurred for an order enjoining or restraining
13 the commission or continuance of the acts. The board may authorize a hearing examiner to
14 conduct the hearing required to determine a violation of this Act.

15 Section 18. The board may, if it deems best for the enforcement of this Act or in the conduct
16 of its duties, employ an attorney designated by the attorney general and subject to the
17 supervision, control, and direction of the attorney general. The board shall fix and determine the
18 compensation and period of service of the attorney who shall be paid out of the funds of the
19 board.

20 Section 19. The board shall receive complaints from its members, consumers, third party
21 carriers providing financial reimbursement for chemical dependency prevention or counseling
22 services, or the public concerning a practitioner's professional practices. Each complaint
23 received shall be logged by the secretary-treasurer recording the practitioner's name, name of
24 the complaining party, date of the complaint, a brief statement of the complaint, and its ultimate

1 disposition. The board shall investigate each alleged violation of this Act. All disciplinary
2 proceedings held under the authority of this Act shall be conducted in accordance with chapter
3 1-26.

4 Section 20. The decision of the board to suspend or revoke a certification requires a majority
5 vote of all the board members.

6 Section 21. If the board determines that any complaint is frivolous or clearly unfounded in
7 fact, the board may dismiss the complaint and, by a separate and unanimous vote of the board,
8 may expunge the complaint from the record of the certified practitioner.

9 Section 22. Any practitioner subject to this Act shall practice in accordance with the
10 standards established by the board and is subject to the exercise of the disciplinary sanctions
11 enumerated in section 24 of this Act if, after a hearing in the manner provided in chapter 1-26,
12 the board finds that:

- 13 (1) A practitioner has employed or knowingly cooperated in fraud or material deception
14 in order to obtain a certification to practice the profession, or has engaged in fraud
15 or material deception in the course of professional services or activities;
- 16 (2) A practitioner has been convicted in any court of a felony;
- 17 (3) A practitioner has engaged in or permitted the performance of unacceptable patient
18 care by the practitioner or by auxiliaries working under the practitioner's supervision
19 due to any deliberate or negligent act or failure to act;
- 20 (4) A practitioner has knowingly violated any provision of this Act or board rules;
- 21 (5) A practitioner has continued to practice although the practitioner has become unfit
22 to practice due to professional incompetence, failure to keep abreast of current
23 professional theory or practice, physical or mental disability, or addiction or severe
24 dependency upon or use of alcohol or other drugs which endanger the public by

1 impairing a practitioner's ability to practice safely;

2 (6) A practitioner has engaged in lewd or immoral conduct in connection with the
3 delivery of chemical dependency or prevention services to consumers;

4 (7) A practitioner has or is employing or assisting an uncertified person to hold himself
5 or herself out as a certified chemical dependency counselor or certified prevention
6 specialist; or

7 (8) A practitioner has engaged in false or misleading advertising.

8 No suspension or revocation may be based on a judgment as to therapeutic value of any
9 individual treatment rendered, but only upon a repeated pattern or trend of treatment resulting
10 in unacceptable results.

11 Section 23. The board may, in a disciplinary proceeding, order a practitioner to submit to
12 a reasonable physical or mental examination if the practitioner's physical or mental capacity to
13 practice safely is at issue. Failure to comply with a board order to submit to a physical or mental
14 examination renders a practitioner liable to the summary revocation procedures described in
15 section 25 of this Act.

16 Section 24. The board may impose any of the following sanctions, singly or in combination,
17 if the board finds that a practitioner has violated any part of section 22 of this Act:

18 (1) Revoke a practitioner's certification to practice for an indefinite length of time;

19 (2) Suspend a practitioner's certification for a specific or indefinite length of time;

20 (3) Censure a practitioner;

21 (4) Issue a letter of reprimand;

22 (5) Place a practitioner on probationary status and require the practitioner to report
23 regularly to the board on the matters which are the basis for probation;

24 (6) Limit the practitioner's practice to areas prescribed by the board and continue to

1 renew professional education until a satisfactory degree of skill has been attained in
2 those areas which are the basis of the probation;

3 (7) Require the practitioner to reimburse the board in an amount equal to the costs
4 incurred for the investigation and disciplinary hearing.

5 The board may withdraw the probation if the board finds the deficiencies that resulted in
6 disciplinary action have been remedied.

7 Certification shall remain in effect during the pendency of an appeal unless suspended under
8 section 25 of this Act.

9 Section 25. The board may summarily suspend a practitioner's certification in advance of
10 a final adjudication or during the appeals process if the board finds that a practitioner would
11 represent a clear and immediate danger to the public health and safety if the practitioner were
12 allowed to continue to practice. A practitioner whose certification is suspended under this
13 section is entitled to a hearing before the board within twenty days after the effective date of the
14 suspension. The practitioner may subsequently appeal the suspension to circuit court in
15 accordance with chapter 1-26.

16 Section 26. Any practitioner whose certification or registration to practice has been
17 suspended or revoked may be reinstated or a new certification or registration may be issued, as
18 the case may be, if in the discretion of the board, such action is warranted. The board may
19 require the applicant to pay all costs of the proceedings resulting in the applicant's suspension
20 or revocation of certification or registration and reinstatement or new certification or
21 registration. In addition, the board may, by rule promulgated pursuant to chapter 1-26, require
22 a fee for reinstatement, not to exceed one hundred fifty dollars.

23 Section 27. In the prosecution of any person for violation of this Act, it is not necessary to
24 allege or prove lack of valid certification. Proof of certification or registration is a matter of

1 defense to be established by the defendant.

2 Section 28. Nothing in this Act may be construed to limit the ongoing certification of any
3 person at the level of certification and for the time period established under the former South
4 Dakota Chemical Dependency Counselor Certification Board doing business as the Certification
5 Board for Alcohol and Drug Professionals

6 Section 29. That subdivision (4) of § 34-20A-2 be amended to read as follows:

7 (4) "Chemical dependency counselor," a level II or III counselor certified by the South
8 Dakota ~~Chemical Dependency Counselor Certification Board, Incorporated for~~
9 Alcohol and Drug Professionals;

10

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

663J0336

HOUSE TAXATION COMMITTEE ENGROSSED NO. **SB 86** - 02/12/2004

Introduced by: Senators Symens, Dempster, Ham-Burr, Koskan, and Moore and
Representatives Hanson, Pederson (Gordon), Sebert, and Sigdestad

1 FOR AN ACT ENTITLED, An Act to revise the requirements for determining whether
2 dwellings are eligible to be classified as owner-occupied single-family dwellings and to
3 repeal certain outdated provisions concerning the property tax relief program.

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

5 Section 1. That § 10-13-40 be amended to read as follows:

6 10-13-40. To be eligible for a property classification pursuant to § 10-13-39, the owner of
7 each owner-occupied dwelling, as defined in § 10-13-39, shall submit a certificate to the county
8 director of equalization stating such person is the owner and occupant of the dwelling as of the
9 assessment date pursuant to § 10-6-2 and that the dwelling is the owner's principal residence.
10 For purposes of this section, principal residence is the residence occupied by the owner for more
11 than half of the year. If the owner occupies two or more dwellings during an assessment year,
12 the owner shall provide the location of any other dwelling that the owner occupies when
13 submitting the certificate. The director of equalization may request appropriate documentation
14 from the owner when making the determination of eligibility. Any person may submit
15 information to the director of equalization that contests whether a dwelling is eligible to be



1 classified as an owner-occupied single-family dwelling. The director of equalization shall
2 review such information and make a determination of eligibility. The owner shall state on the
3 certificate the portion of the dwelling so occupied by the owner if it is less than fifty percent of
4 the dwelling or if the dwelling is a duplex, triplex, or fourplex. The owner-occupant shall submit
5 the certificate by March fifteenth. The owner of each manufactured or mobile home as defined
6 in § 32-3-1, shall submit a certificate to the county director of equalization stating such person
7 is the owner and occupant of the dwelling as of the assessment date. The owner-occupant of
8 each manufactured or mobile home shall submit the certificate during the time of registration
9 pursuant to §§ 10-9-3 to 10-9-4, inclusive. If the owner-occupant of a manufactured or mobile
10 home fails to submit the certificate by the date or time frame required pursuant to §§ 10-9-3 to
11 10-9-4, inclusive, it does not affect the eligibility of the property to be classified as an
12 owner-occupied dwelling. The owner-occupant shall sign the certificate under penalty of
13 perjury. If the director of equalization classifies the property, mobile home, or manufactured
14 home as owner-occupied single-family dwelling, it shall retain the classification until such time
15 as the property ownership is transferred or the property has a change in use. The new
16 owner-occupant of transferred property which is already classified as owner-occupied may meet
17 the requirements of this section by completing and filing the certificate of value required
18 pursuant to § 7-9-7 at the time of the transfer of the property. If the legal description of property
19 is changed or amended and the owner continues to reside in the dwelling that is classified as a
20 owner-occupied single-family dwelling, the owner shall retain the owner-occupied single-family
21 dwelling classification. The Department of Revenue and Regulation shall prescribe the form of
22 the certificate and the certificate of value required pursuant to § 7-9-7. Appeals regarding the
23 owner-occupied classification shall be made directly to the county board of equalization
24 pursuant to § 10-11-23.

1 Section 2. For the 2005 assessment year, the director of equalization in each county shall
2 review all properties classified as owner-occupied to determine that the property is the owner's
3 principal residence.

4 Section 3. That § 10-13-40.1 be repealed.

5 ~~10-13-40.1. Any person who physically delivered a certificate before August 1, 1995, to the~~
6 ~~county director of equalization or other county office located within the county courthouse~~
7 ~~stating such person was the owner and occupant of the dwelling as of July first of that year, and~~
8 ~~if such application was subsequently lost at the courthouse, the person may submit an affidavit~~
9 ~~under oath identifying the person who physically delivered the certificate and the specific~~
10 ~~location of delivery as well as the individual who received the certificate, either by name or~~
11 ~~physical description, and further affirming the following:~~

12 ~~(1) That a certificate was physically delivered to the county director of equalization or~~
13 ~~other county officer located within the county courthouse before August 1, 1995;~~

14 ~~(2) That the certificate was subsequently lost at the courthouse; and~~

15 ~~(3) That the person meets the requirements defined in § 10-13-40:~~

16 ~~The owner-occupant shall submit the affidavit before April 1, 1996. Each owner-occupied~~
17 ~~dwelling shall be reviewed and classified for the purpose of taxation in the same manner as the~~
18 ~~certifications for owner-occupied dwellings submitted before August first to be eligible for the~~
19 ~~property tax credit to be received in calendar year 1996. Any person who makes a false~~
20 ~~statement in the affidavit is guilty of perjury and subject to a felony conviction pursuant to~~
21 ~~§ 22-29-5.~~

22 Section 4. That § 10-13-40.2 be repealed.

23 ~~10-13-40.2. The county auditor shall submit a list to the Department of Revenue and~~
24 ~~Regulation of the owner-occupied dwellings that are classified pursuant to § 10-13-40.1 to be~~

1 eligible for the property tax credit. The Department of Revenue and Regulation shall refund the
2 property tax credit to the owner-occupant after November 1, 1996, upon confirmation from the
3 county auditor or county treasurer that the owner-occupant has paid the property taxes in full
4 for the dwelling.

5 Section 5. That § 10-13-41 be repealed.

6 ~~10-13-41. An owner of agricultural property shall receive a twenty percent credit toward the~~
7 ~~property taxes payable in 1996, excluding special assessments payable in 1996. For the purposes~~
8 ~~of this section, agricultural property includes agricultural structures located on agricultural land.~~

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

795J0643

HOUSE JUDICIARY COMMITTEE ENGROSSED NO. **SB 95** - 02/13/2004

Introduced by: Senators Schoenbeck, Abdallah, and Albers and Representatives Hennies and Buckingham

1 FOR AN ACT ENTITLED, An Act to permit the Law Enforcement Officers Standards
2 Commission to refuse certain applications based on juvenile adjudications and dispositions
3 and to provide for access to certain juvenile adjudications and dispositions by the
4 commission.

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

6 Section 1. That § 23-3-42 be amended to read as follows:

7 23-3-42. In addition to the requirements of § 23-3-41, the commission, by rules ~~and~~
8 ~~regulations promulgated pursuant to chapter 1-26~~, shall fix other qualifications for the
9 employment and training of appointed law enforcement officers, including minimum age,
10 education, physical and mental standards, citizenship, good moral character, experience, and
11 such other matters as relate to the competence and reliability of persons to assume and discharge
12 the various responsibilities of law enforcement officers, ~~and the~~. The commission shall also
13 prescribe the means for presenting evidence of fulfillment of these requirements.
14 Notwithstanding §§ 23A-27-14 and 23A-27-17, a any person seeking certification as a law
15 enforcement officer who has received an order pursuant to § 23A-27-13 may have his or her



1 application refused or certification revoked. Notwithstanding §§ 26-7A-105 and 26-7A-106, any
2 person seeking certification as a law enforcement officer who has received an adjudication or
3 disposition pursuant to chapter 26-7A or 26-8C may have his or her application refused if the
4 adjudication or disposition was for a crime which, if committed by an adult, would constitute
5 a crime under chapter 22-42 that is punishable as a felony, a sex crime as defined in § 22-22-30,
6 or a crime of violence as defined in subdivision 22-1-2(9).

7 Section 2. The Unified Judicial System shall provide such access about any adjudication or
8 disposition pursuant to chapter 26-7A or 26-8C to the Law Enforcement Officers Standards
9 Commission as may be necessary to effectuate the purposes of section 1 of this Act.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

714J0771

HOUSE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **SB 209** - 02/12/2004

Introduced by: Senator LaPointe

1 FOR AN ACT ENTITLED, An Act to authorize certain municipalities to provide housing for
2 police officers and to declare an emergency.

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

4 Section 1. Any second or third class municipality within the State of South Dakota may
5 erect, purchase, lease, rent, equip, furnish, insure, sell, and move dwellings to be used as
6 housing for police officers and other police personnel of the municipality. Such municipality
7 may establish the terms and rental amounts under which such dwellings are occupied.

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

