

State of South Dakota

EIGHTIETH SESSION
LEGISLATIVE ASSEMBLY, 2005

282L0152

HOUSE EDUCATION COMMITTEE ENGROSSED NO.

HB 1127 - 02/11/2005

Introduced by: Representatives Hackl and Sigdestad and Senators Koskan and Peterson (Jim)

1 FOR AN ACT ENTITLED, An Act to authorize the provision of special education and related
2 services to certain alternative instruction students.

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

4 Section 1. That § 13-37-1.3 be amended to read as follows:

5 13-37-1.3. Each school district shall provide all of its resident children in need of special
6 education or special education and related services, as defined in § 13-37-1, with a free
7 appropriate public education, as defined in rules promulgated pursuant to chapter 1-26 by the
8 South Dakota Board of Education. However, no child with a disability who is receiving
9 alternative instruction pursuant to § 13-27-3 has an individual right to receive any of the special
10 education or special education and related services that the child would receive if enrolled in
11 a public school. Upon request, a school board may allow a resident child in need of special
12 education or special education and related services who is being provided with alternative
13 instruction pursuant to § 13-27-3 to also enroll in a public school within the district to receive
14 special education or special education and related services. If a school board denies such a
15 request, the denying school board shall provide the parents or legal guardian of the child and the



1 secretary of the Department of Education with the reasons for the denial in writing. The
2 secretary may reverse the decision of the denying school board and require the school board to
3 allow the resident child to enroll without recourse of appeal. A parent or legal guardian is not
4 afforded the due process protections in ARSD Article 24:05 when special education or special
5 education and related services by the public school are denied for a child receiving alternative
6 instruction.

State of South Dakota

EIGHTIETH SESSION
LEGISLATIVE ASSEMBLY, 2005

596L0627

HOUSE APPROPRIATIONS COMMITTEE ENGROSSED

NO. **HB 1158** - 02/11/2005

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

Introduced by: Representatives Dennert, Glenski, Rausch, Schafer, and Wick and Senators Bartling and McCracken

1 FOR AN ACT ENTITLED, An Act to appropriate funds to provide cochlear implants to certain
2 children.

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

4 Section 1. There is hereby appropriated from the telecommunication fund for the deaf the
5 sum of two hundred thousand dollars (\$200,000), or so much thereof as may be necessary, to
6 the Department of Human Services to provide cochlear implants to children who are less than
7 five years of age and who suffer from severe to profound hearing loss.

8 Section 2. Funds appropriated pursuant to this Act may only be provided to cover:

9 (1) The costs of providing a cochlear implant to a child who is not covered under a plan
10 of health insurance; or

11 (2) Any portion of the costs of providing a cochlear implant to a child that is over and
12 above what any plan of health insurance covering the child will pay.

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



1 Section 4. Any amounts appropriated in this Act, but not lawfully expended or obligated by
2 July 1, 2006, shall revert in accordance with § 4-8-21.

State of South Dakota

EIGHTIETH SESSION
LEGISLATIVE ASSEMBLY, 2005

439L0743

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1222 - 02/11/2005

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

Introduced by: Representatives O'Brien, Boomgarden, Cutler, Hennies, Kraus, Murschel, and Willadsen and Senators Olson (Ed) and Schoenbeck

1 FOR AN ACT ENTITLED, An Act to establish child neglect and endangerment as criminal
2 offenses and to provide penalties therefor.

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

4 Section 1. It is a Class 1 misdemeanor for any parent, guardian, or custodian to willfully
5 deprive his or her child of necessary food, clothing, or shelter if the parent, guardian, or
6 custodian is reasonably able to make the necessary provisions and the deprivation harms the
7 child's physical, mental, or emotional health.

8 Section 2. It is a Class 1 misdemeanor for any parent, guardian, or custodian to knowingly
9 permit any continuing physical or sexual abuse of his or her child.

10 Section 3. It is a Class 1 misdemeanor for any parent, guardian, or custodian to:

11 (1) Intentionally or recklessly cause or permit his or her child to be placed in a situation
12 likely to substantially harm the child's physical health or cause the child's death; or

13 (2) Knowingly cause or permit his or her child to be present where any person is
14 manufacturing methamphetamines.



1 Section 4. It is a defense to prosecution under this Act if, at the time of the offense, there
2 was a reasonable apprehension in the mind of the defendant that acting to stop or to prevent the
3 offense would result in substantial bodily harm to the defendant or the child in retaliation.

4 Section 5. The code counsel shall codify this Act in a newly created chapter in Title 22
5 entitled "Offenses Against the Family.

State of South Dakota

EIGHTIETH SESSION
LEGISLATIVE ASSEMBLY, 2005

445L0787

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1249** - 02/11/2005

Introduced by: Representatives Dykstra, Brunner, Buckingham, Davis, Deadrick, Frost, Fryslie, Garnos, Hackl, Howie, Hunhoff, Hunt, Jensen, Klaudt, Koistinen, Kraus, Krebs, Lange, McCoy, Miles, Nelson, Olson (Ryan), Pederson (Gordon), Putnam, Rausch, Rave, Rhoden, Rounds, Schafer, Sebert, Van Etten, Weems, and Wick and Senators Hansen (Tom), Abdallah, Apa, Bartling, Duenwald, Earley, Gant, Gray, Greenfield, Hanson (Gary), Kooistra, Koskan, Lintz, McNenny, Moore, Napoli, Peterson (Jim), Schoenbeck, Smidt, and Sutton (Duane)

1 FOR AN ACT ENTITLED, An Act to prohibit the performance of abortions, except to save the
2 life of the mother, and to provide a penalty therefor and to provide for a delayed effective
3 date.

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

5 Section 1. That § 34-23A-2 be repealed.

6 ~~— 34-23A-2. An abortion may be performed in this state only if it is performed in compliance~~
7 ~~with § 34-23A-3, 34-23A-4, or 34-23A-5.~~

8 Section 2. That § 34-23A-3 be repealed.

9 ~~— 34-23A-3. An abortion may be performed by a physician during the first twelve weeks of~~
10 ~~pregnancy. The abortion decision and its effectuation must be left to the medical judgment of~~
11 ~~the pregnant woman's attending physician during the first twelve weeks of pregnancy.~~

12 Section 3. That § 34-23A-4 be repealed.



1 ~~34-23A-4. An abortion may be performed following the twelfth week of pregnancy and~~
2 ~~through the twenty-fourth week of pregnancy by a physician only in a hospital licensed under~~
3 ~~the provisions of chapter 34-12 or in a hospital operated by the United States, this state, or any~~
4 ~~department, agency, or political subdivision of either or in the case of hospital facilities not~~
5 ~~being available, in the licensed physician's medical clinic or office of practice subject to the~~
6 ~~requirements of § 34-23A-6.~~

7 Section 4. That § 34-23A-5 be repealed.

8 ~~34-23A-5. An abortion may be performed following the twenty-fourth week of pregnancy~~
9 ~~by a physician only in a hospital authorized under § 34-23A-4 and only if there is appropriate~~
10 ~~and reasonable medical judgment that performance of an abortion is necessary to preserve the~~
11 ~~life or health of the mother.~~

12 Section 5. That § 22-17-5 be repealed.

13 ~~22-17-5. Any person who performs, procures or advises an abortion other than authorized~~
14 ~~by chapter 34-23A is guilty of a Class 6 felony.~~

15 Section 6. That chapter 22-17 be amended by adding thereto a NEW SECTION to read as
16 follows:

17 Any person who administers to any pregnant female or who prescribes or procures for any
18 pregnant female any medicine, drug, or substance or uses or employs any instrument or other
19 means with intent thereby to procure an abortion, unless there is appropriate and reasonable
20 medical judgment that performance of an abortion is necessary to preserve the life of the
21 pregnant female, is guilty of a Class 6 felony.

22 Section 7. This Act is effective on the date that the states are recognized by the United States
23 Supreme Court to have the authority to regulate or prohibit abortion at all stages of pregnancy.

State of South Dakota

EIGHTIETH SESSION
LEGISLATIVE ASSEMBLY, 2005

400L0757

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1259** - 02/11/2005

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

1 FOR AN ACT ENTITLED, An Act to reestablish eligibility for certain veterans to qualify for
2 the veterans' bonus program and to declare an emergency.

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

4 Section 1. Any veteran who served on active duty after August 2, 1990, and who qualified
5 for a veterans bonus as provided by chapter 238 of the 1992 Session Laws and chapter 243 of
6 the 1993 Session Laws is eligible to receive a veterans bonus as provided for by chapter 238 of
7 the 1992 Session Laws and chapter 243 of the 1993 Session Laws.

8 Section 2. Notwithstanding any other provisions of law, the bonus provided for by section
9 1 of this Act shall be paid out of any money appropriated to the Department of Military and
10 Veterans Affairs for the purpose of paying a veterans bonus.

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



State of South Dakota

EIGHTIETH SESSION
LEGISLATIVE ASSEMBLY, 2005

400L0782

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1260** - 02/11/2005

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

1 FOR AN ACT ENTITLED, An Act to create the South Dakota Electric Transmission
2 Assistance Authority.

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

4 Section 1. Terms used in this Act mean:

5 (1) "Authority," the South Dakota Electric Transmission Assistance Authority created
6 by this Act;

7 (2) Board," the board of directors of the authority.

8 Section 2. The authority is created and has a five-member board of directors. The Governor
9 shall appoint the board members and not all members of the board may be of the same political
10 party. The members of the initial board shall be appointed for staggered terms with two
11 members for terms of one year each and the other members for terms of two, three, and four
12 years, respectively, as designated at the time of appointment. Thereafter all members shall be
13 appointed for four year terms. Members of the board may serve more than one term. The
14 members shall elect from the membership a chair, vice-chair, and secretary. A majority of
15 persons appointed and serving as members shall be qualified voters of the State of South Dakota



1 and a majority of members shall possess special knowledge in the field of electric power or
2 energy transmission or generation. The board members shall receive per diem set pursuant to
3 § 4-7-10.4 and expenses at the same rate as other state employees while engaged in their official
4 duties.

5 Section 3. The authority shall:

- 6 (1) Meet with all willing owners of transmission lines in South Dakota and all willing
7 generators and distributors of electricity to consumers in South Dakota by August
8 first each year to understand transmission enhancements needed for the transmission
9 of electricity to, from, and within South Dakota, and to analyze how the authority
10 could proactively assist in developing transmission infrastructure;
- 11 (2) Report its findings and make recommendations to the Governor, the Legislature, and
12 the South Dakota congressional delegation by December first of each year concerning
13 what the private sector, the state, and the federal government can do to create and
14 enhance the transmission of electricity to, from, and within South Dakota. The report
15 due December 1, 2005, shall address and quantify market opportunities for the
16 development, use in-state, and export of South Dakota's enormous wind power
17 resource;
- 18 (3) Annually evaluate state laws and rules affecting electric transmission and make
19 recommendations to the Governor and the Legislature for improvements by
20 December first of each year;
- 21 (4) Annually evaluate federal laws and rules affecting electric transmission and make
22 recommendations to the South Dakota congressional delegation for improvements
23 by December first of each year;
- 24 (5) Identify opportunities where owners of transmission lines in South Dakota and

1 generators and distributors of electricity to consumers in South Dakota can cooperate
2 to improve and increase electric transmission in South Dakota and communicate
3 those opportunities to owners, generators, and distributors of electricity in South
4 Dakota;

5 (6) Assist any entity or group of entities who wish to create or enhance electric
6 transmission to, from, and within South Dakota by helping them develop a business
7 plan and identify financing options; and

8 (7) Assist the electric transmission authorities of other states and any other federal or
9 regional entity wanting to create additional transmission or enhance current
10 transmission of electricity to, from, and within South Dakota.

11 Section 4. The authority shall be administered by the Department of Tourism and State
12 Development.

State of South Dakota

EIGHTIETH
LEGISLATIVE ASSEMBLY, 2005

400L0230

SENATE JUDICIARY COMMITTEE ENGROSSED NO. SB 12 - 01/21/2005

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

1 FOR AN ACT ENTITLED, An Act to authorize a parent to appear telephonically for a hearing
2 to voluntarily terminate parental rights.

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

4 Section 1. That § 25-5A-14 be amended to read as follows:

5 25-5A-14. The personal presence of one parent at the hearing is required for jurisdictional
6 purposes. However, ~~any~~ for good cause shown, and upon notice to any other person or
7 authorized agency whose consent is required pursuant to § 25-5A-6, the court may permit the
8 parent to appear telephonically if the parent does so in the physical presence of a person
9 designated by the court to monitor the parent's appearance. Any other person whose consent is
10 necessary; may appear by filing with the court a power of attorney. If the Department of Social
11 Services or a licensed child placement agency has custody of a child by written agreement of
12 a parent with power of attorney to consent, the secretary or an authorized agent may appear and
13 consent. Notwithstanding the foregoing provisions of this section, due regard shall be given to
14 the Indian Child Welfare Act (25 U.S.C. 1901 to 1963, inclusive,) as in effect on January 1,
15 2005, if applicable.



State of South Dakota

EIGHTIETH
LEGISLATIVE ASSEMBLY, 2005

400L0314

HOUSE HEALTH AND HUMAN SERVICES
COMMITTEE ENGROSSED NO. **SB 41** - 02/07/2005

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

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding access to vital
2 records.

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

4 Section 1. That § 34-25-1.1 be amended by adding thereto a NEW SUBDIVISION to read
5 as follows:

6 "Authorized representative," an attorney, physician, funeral director, or other designated
7 agent acting on behalf of the family.

8 Section 2. That § 34-25-8 be amended to read as follows:

9 34-25-8. The birth of every child born in this state shall be registered as provided in this
10 chapter. Within seven days after the date of each live birth, there shall be filed with the
11 department by electronic means if a facility has such capabilities, or otherwise if electronic
12 means are not available, a certificate of such birth, ~~which.~~ The certificate shall be upon the form
13 prescribed by the department. For certificates of birth filed after seven days, but within one year
14 from the date of birth, the department may, by rules promulgated pursuant to chapter 1-26,
15 require additional evidence in support of the facts of birth.



1 ~~Certified~~ Informational copies of birth records shall be available to any person who can
2 identify the birth record by providing the name of the person on the birth record, the date of
3 birth, the mother's maiden name, or additional information required to locate the record.
4 Nothing in this section prohibits the release of information contained on a birth record which
5 would not identify any person named in the record.

6 If one hundred years have elapsed after the date of birth, the records of the birth in the
7 custody of the department shall become available to the public without restriction. The
8 department shall promulgate rules, pursuant to chapter 1-26, to provide for the continued
9 safekeeping of these records.

10 Section 3. That § 34-25-52 be amended to read as follows:

11 ~~34-25-52. The Department of Health shall upon request supply to any applicant a certified~~
12 ~~copy of the record of any birth, death, fetal death, marriage, or divorce registered under the~~
13 ~~provisions of this chapter, for the making and certification of which he shall be entitled to a fee~~
14 ~~based upon administrative cost as established by the department pursuant to chapter 1-26 to be~~
15 ~~paid by the applicant. Information in vital records indicating that a birth occurred out of wedlock~~
16 ~~shall not be disclosed except as provided by regulation or upon order of a court of competent~~
17 ~~jurisdiction. Any record or a certified copy thereof shall be prima facie evidence in all of the~~
18 ~~courts of this state of the facts therein stated~~ The department or authorized local registrars shall,
19 upon receipt of an application, issue a certified copy of a vital record to the registrant or the
20 registrant's spouse, children, parents, guardian, next of kin, or authorized representative. The
21 department may authorize others to obtain certified copies in response to a demonstration that
22 the record is needed for the determination or protection of a personal or property right. The
23 department or authorized local registrars shall upon receipt of an application, issue
24 informational copies to any applicant of any vital record. The department or authorized local

1 registrar may withhold the immediate issuance of any certified copy for a period of no longer
2 than three days. The department shall be entitled to a fee based upon administrative cost as
3 established by the department pursuant to chapter 1-26 for each search of the files and records.
4 The fee shall be paid in advance by the applicant and shall not be in addition to the fee
5 hereinbefore provided for the making and certification of the record but shall be applied in
6 payment thereof if the record is found.

7 Section 4. That chapter 34-25 be amended by adding thereto a NEW SECTION to read as
8 follows:

9 All forms and procedures used in the issuance of certified and informational copies of vital
10 records shall be uniform and shall be provided or approved by the state registrar. The
11 department shall promulgate rules pursuant to chapter 1-26 to determine application
12 requirements for a certified and an informational copy of a vital record, acceptable proof of
13 identity, and the features required in a certified or informational copy.

14 Section 5. That chapter 34-25 be amended by adding thereto a NEW SECTION to read as
15 follows:

16 Nothing in this chapter may be construed to permit disclosure of information contained in
17 the "Information for Medical and Health Use Only" section of the birth certificate or the
18 "Information for Statistical Purposes Only" section of the certificate of marriage or certificate
19 of divorce unless specifically authorized by the department for statistical or research purposes.
20 Such data is not subject to subpoena or court order and is not admissible before any court,
21 tribunal, or judicial body.

22 Section 6. That chapter 34-25 be amended by adding thereto a NEW SECTION to read as
23 follows:

24 To protect the integrity of vital records, ensure their proper use, and to ensure the efficient

1 and proper administration of the vital records system, no employee of the state vital records
2 office, local registrar, or deputy registrar may permit inspection of any vital record or disclose
3 information contained in any vital record or issue a copy of all or part of any such record unless
4 authorized by this chapter or a court of competent jurisdiction.

5 Section 7. That § 34-25-57 be amended to read as follows:

6 34-25-57. No person, officer, agent, or employee of any other person or of any corporation
7 or partnership may:

- 8 (1) Inter, cremate, or otherwise finally dispose of a dead body of a human being or
9 permit the same to be done or remove the body from the state without authority of
10 a burial or removal permit;
- 11 (2) Refuse or fail to furnish any information in such person's possession or furnish false
12 information affecting any certificate or record required by this chapter;
- 13 (3) Intentionally falsify any certificate of birth, death, or burial or removal permit or any
14 record required by this chapter;
- 15 (4) Being required by this chapter to fill out a certificate of birth or death and file the
16 certificate with the local registrar or deliver it upon request to any person charged
17 with the duty of filing the certificate, fail, neglect, or refuse to perform;
- 18 (5) Being an employee of the state vital records office, a local registrar or deputy
19 registrar, intentionally fail, neglect, or refuse to perform the duty as required by this
20 chapter or by the rules adopted by the secretary of health or by the instructions and
21 directions of the department;
- 22 (6) Intentionally make, counterfeit, alter, amend, or mutilate any certificate, record, or
23 report required by this chapter or a certified copy of the certificate, record, or report
24 for the purpose of deception;

1 (7) Obtain, possess, use, sell, or furnish to another, or attempt to obtain, possess, use,
2 sell, or furnish to another, any certificate, record, or report, or certified copy thereof,
3 required by this chapter, whether altered in any manner or not, for any purpose of
4 deception; or

5 (8) Possess any certificate, record, or report, or copy thereof, required by this chapter,
6 knowing that the certificate, record, or report, or copy thereof, was stolen or
7 otherwise obtained unlawfully.

8 A violation of this section is a Class 1 misdemeanor.

9 Section 8. That chapter 34-25 be amended by adding thereto a NEW SECTION to read as
10 follows:

11 No employee of the state vital records office, local registrar, or deputy registrar may be held
12 personally liable for any unintentional issuance of any certified copy of any vital record
13 fraudulently obtained.

State of South Dakota

EIGHTIETH
LEGISLATIVE ASSEMBLY, 2005

400L0360

SENATE ENGROSSED NO. **SB 45** - 01/24/2005

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

1 FOR AN ACT ENTITLED, An Act to authorize the Bureau of Administration to donate the
2 former Governor's residence for a public purpose and to declare an emergency.

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

4 Section 1. Notwithstanding any other provisions of state law, the Bureau of Administration
5 is authorized to donate the former Governor's residence, which was constructed as a Works
6 Progress Administration project beginning in 1936 and removed from the site of 119 North
7 Washington in Pierre, South Dakota, in November of 2003, to a public or private entity in South
8 Dakota to be used for a public purpose approved by a committee to be appointed by the
9 Governor. Notwithstanding any other provision of state law, no money appropriated by the
10 Legislature, or approved for expenditure by the special committee created by chapter 4-8A, may
11 be expended for the removal of the building specified in section 1 of this Act or for the public
12 purpose for which the building is removed.

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



State of South Dakota

EIGHTIETH
LEGISLATIVE ASSEMBLY, 2005

400L0358

SENATE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **SB 61** - 01/19/2005

Introduced by: The Committee on State Affairs at the request of the Department of Tourism
and State Development

1 FOR AN ACT ENTITLED, An Act to authorize the South Dakota Science and Technology
2 Authority to use eminent domain for certain limited purposes.

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

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

6 For the purpose of this Act, the term, subsurface property, means complete fee title to real
7 property located one hundred feet or more below the surface, including the right to use such real
8 property to construct, operate, support and maintain underground facilities, for scientific and
9 technological experimentation and exploration, for the commercial exploitation of the
10 subsurface for purposes other than mineral extraction, and for any other lawful purpose. The
11 term, subsurface property, does not include ownership or the right to occupancy of the surface.

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

14 The authority may condemn private and public subsurface property for public use for the
15 purposes of acquiring, developing, constructing, maintaining, or operating projects. The



1 authority may only condemn subsurface property upon or through which it already owns or
2 controls some, but not all, property rights. If the authority deems it necessary to condemn any
3 subsurface property for such purpose, it shall, by resolution, declare the condemnation
4 necessary, stating the purposes and extent thereof. Thereupon, proceedings for condemnation
5 shall be undertaken in the name of the authority, as provided in chapter 21-35 and this chapter.

6 Section 3. That chapter 1-16H be amended by adding thereto a NEW SECTION to read as
7 follows:

8 In any proceeding initiated under this chapter and chapter 21-35, the authority may, at any
9 time before final judicial determination of the rights of the parties, file a declaration of taking,
10 signed by the authority, declaring the extent of the subsurface property interest taken for the use
11 of the authority.

12 The declaration of taking shall contain:

- 13 (1) A statement of the authority under which and the use for which the subsurface
14 property interest is taken;
- 15 (2) A description of the subsurface property interest taken sufficient for identification
16 thereof;
- 17 (3) A legal description of the subsurface property subject to or affected by the taking;
- 18 (4) The names of the owners of the property or persons in interest in the subsurface
19 property, and a description of the interest claimed by each, as are known;
- 20 (5) A statement of the sum of money estimated by the authority to be just compensation
21 for the subsurface property interest taken and damaged; and
- 22 (6) A detailed appraisal upon which the amount of the authority's estimate is based.

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

1 Title to the subsurface property interest specified in the declaration shall vest in the authority
2 and the subsurface property interest shall be deemed condemned and taken for the use of the
3 authority, and the right to just compensation for the subsurface property interest shall vest in the
4 persons entitled thereto either on the date the decision is rendered pursuant to the hearing
5 provided for in § 21-35-10.1 or the date the hearing is waived, either by consent in writing or
6 by failing to make demand for the hearing within the time allowed.

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

9 Upon filing of a declaration of taking pursuant to section 3 of this Act, the court may fix the
10 time within which, and the terms upon which, the parties in possession are required to surrender
11 possession to the authority. A notice shall be issued stating that if the defendants do not appear
12 in or respond to the proceedings with thirty days after service of the notice, exclusive of the day
13 of service, the authority shall apply to the court for an order of possession. A notice of hearing
14 shall then be issued by the court and served as provided in section 6 of this Act upon the record
15 owners of all subsurface property sought to be acquired or damaged. The notice shall state a
16 time and place for hearing not less than thirty days from the date of service, unless the waiver
17 of hearing provided by § 21-35-10.1 is filed, in which case the hearing may be held sooner. The
18 court may make such orders in respect to encumbrances, liens, rents, taxes, assessments,
19 insurance and other charges, if any, as are just and equitable.

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

22 A copy of the declaration of taking filed pursuant to section 2 of this Act and any
23 amendments thereto shall be served with the condemnation petition or by mailing a copy thereof
24 to each of the known defendants by registered mail at the defendant's last known post office

1 address.

2 Section 7. That chapter 1-16H be amended by adding thereto a NEW SECTION to read as
3 follows:

4 If any person who is a proper party defendant or if any affected subsurface property is
5 omitted from the declaration of taking filed pursuant to section 2 of this Act, the authority may
6 file amendments to include the person or subsurface property. Any amendment from the time
7 of filing has the same force and effect as if it were included in the original proceedings. The
8 misnaming or omission of any defendant's name does not defer the effect of the declaration of
9 taking.

10 Section 8. That chapter 1-16H be amended by adding thereto a NEW SECTION to read as
11 follows:

12 If the authority elects to utilize the procedures set forth in sections 2 to 7, inclusive, of this
13 Act for possession of subsurface property, the authority shall deposit with the court the money
14 required by § 21-35-11 as a condition to the exercise of such power. In that case, the court and
15 the attorneys shall expedite the proceedings for the distribution of the money deposited and for
16 the ascertainment and payment of just compensation.

17 Section 9. That chapter 1-16H be amended by adding thereto a NEW SECTION to read as
18 follows:

19 Upon application of the parties in interest, the court may order that all of the money
20 deposited in court pursuant to section 8 of this Act, or any part thereof, be paid for or on account
21 of the just compensation to be awarded in the proceeding. If the compensation finally awarded
22 for the subsurface property interest taken, or any part thereof, exceeds the amount of money
23 received by any person so entitled, the court shall enter judgment against the authority for the
24 amount of the deficiency.

1 Section 10. That chapter 1-16H be amended by adding thereto a NEW SECTION to read
2 as follows:

3 The provisions of chapters 45-4 and 45-5A do not apply to subsurface property rights taken
4 by the authority pursuant to this Act.

State of South Dakota

EIGHTIETH SESSION
LEGISLATIVE ASSEMBLY, 2005

679L0099

SENATE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **SB 73** - 01/31/2005

Introduced by: Senators Lintz, McNenny, and Napoli and Representatives Pederson
(Gordon), Brunner, Howie, and McCoy

1 FOR AN ACT ENTITLED, An Act to revise the power of rural fire protection districts to
2 contract with certain entities.

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

4 Section 1. That § 34-31A-18 be amended to read as follows:

5 34-31A-18. Any rural fire protection district may ~~elect to~~ enter into a contract with another
6 rural fire protection district to consolidate or cooperate for mutual fire protection and prevention
7 purposes, or may enter into a contract with any federal, state, or local government agency for
8 fire protection service or fire protection cooperation upon terms suitable to all concerned, ~~and~~
9 power. Power to make such contracts is hereby conferred upon such state or local government
10 agency in addition to such powers as are otherwise provided by law. Any rural fire protection
11 district may enter into a contract with any nonprofit corporation, organized under the laws of
12 this state and whose sole purpose is fire protection, for fire protection service or fire protection
13 cooperation upon terms suitable to all concerned. Any contract between a rural fire protection
14 district and a nonprofit corporation that was entered into prior to the effective date of this Act,
15 and which now complies with the provisions of this section is hereby declared to be valid and



1 legal.

State of South Dakota

EIGHTIETH SESSION
LEGISLATIVE ASSEMBLY, 2005

249L0142

SENATE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **SB 86** - 01/26/2005

Introduced by: Senators Duenwald, Broderick, Gray, Koskan, and Olson (Ed) and
Representatives Rounds, Davis, Hennies, Jensen, and Murschel

1 FOR AN ACT ENTITLED, An Act to revise the compensation for deputy coroners.

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

3 Section 1. That § 7-14-9 be amended to read as follows:

4 7-14-9. The coroner may appoint one or more deputies and ~~such deputies~~ each deputy shall
5 receive ~~the same~~ fees and expenses as ~~the coroner, but~~ determined at the discretion of the board
6 of the county commissioners. The deputy coroner may not receive a salary.



State of South Dakota

EIGHTIETH SESSION
LEGISLATIVE ASSEMBLY, 2005

690L0525

SENATE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **SB 96** - 01/26/2005

Introduced by: Senators Duenwald and Nesselhuf and Representatives Schafer, Boomgarden,
Davis, Hackl, and Kroger

1 FOR AN ACT ENTITLED, An Act to allow municipalities to offer full food services at certain
2 licensed municipal facilities and to declare an emergency.

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

4 Section 1. That chapter 35-4 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Any municipality holding a license pursuant to Title 35 may serve or provide for the service
7 of food at any establishment operating under such license.

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.



State of South Dakota

EIGHTIETH SESSION
LEGISLATIVE ASSEMBLY, 2005

716L0581

SENATE ENGROSSED NO. **SB 103** - 02/04/2005

Introduced by: Senators Broderick, Gray, Moore, Nesselhuf, and Sutton (Duane) and Representatives Fryslie, Faehn, Haley, Pederson (Gordon), Rounds, and Willadsen

1 FOR AN ACT ENTITLED, An Act to authorize the funding of public transportation from the
2 state highway fund and to repeal certain obsolete provisions regarding the state highway
3 fund.

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

5 Section 1. That § 10-12-6 be repealed.

6 ~~— 10-12-6. The secretary of revenue and regulation may levy annually a sufficient tax, not to~~
7 ~~exceed one-tenth of one dollar per thousand dollars taxable valuation for any year upon each~~
8 ~~dollar of the taxable valuation of all taxable property in this state, to provide a special fund in~~
9 ~~the state treasury to be known as the state highway fund. All money received by the state~~
10 ~~treasurer pursuant to such levy shall be placed in such fund, to be used and expended under the~~
11 ~~direction of the Department of Transportation, for the purpose of constructing and maintaining~~
12 ~~highways and bridges in this state and paying the salaries and expenses of the Department of~~
13 ~~Transportation, as the same may be appropriated for these purposes by the Legislature.~~

14 Section 2. That chapter 31-2 be amended by adding thereto a NEW SECTION to read as
15 follows:



1 There is created a special fund in the state treasury to be known as the state highway fund.
2 All moneys in the fund shall be used and expended under the direction of the Department of
3 Transportation, for the purpose of constructing and maintaining highways and bridges in this
4 state, paying the salaries and expenses of the Department of Transportation, and funding public
5 transportation, as the moneys may be appropriated for these purposes by the Legislature.

6 Section 3. That § 31-2-14.2 be amended to read as follows:

7 31-2-14.2. All moneys in the state highway fund shall be used only for the construction,
8 maintenance, and supervision of highways and bridges in this state ~~and~~, for the administrative
9 costs necessary to perform such duties, and for the funding of public transportation.