

State of South Dakota

EIGHTIETH
LEGISLATIVE ASSEMBLY, 2005

400L0275 **HOUSE APPROPRIATIONS COMMITTEE ENGROSSED**
NO. HB 1024 - 02/14/2005

Introduced by: The Committee on Appropriations at the request of the Board of Regents

1 FOR AN ACT ENTITLED, An Act to make an appropriation to the Board of Regents to cover
2 certain cost increases affecting construction of the Lee Medicine and Science Hall
3 renovation or replacement project at the University of South Dakota and to declare an
4 emergency.

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

6 Section 1. There is hereby appropriated one million eight hundred thousand dollars
7 (\$1,800,000) from the general fund to the Board of Regents to supplement the thirty-two million
8 dollars provided in subdivision (8) of section 3 of chapter 95 of the 2001 Session Laws for the
9 renovation or replacement of the Lee Medicine and Science Hall at the University of South
10 Dakota in Vermillion, South Dakota.

11 Section 2. 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.

14 Section 3. Notwithstanding the provisions of § 13-51-2, no money from the state general
15 fund, student tuition fees, the educational facilities fund, nor any money appropriated for



- 1 statewide maintenance and repair, may be used to finance the maintenance and repair of the
- 2 facilities specified in this Act.

State of South Dakota

EIGHTIETH
LEGISLATIVE ASSEMBLY, 2005

400L0270 **HOUSE APPROPRIATIONS COMMITTEE ENGROSSED**
NO. HB 1025 - 02/14/2005

Introduced by: The Committee on Appropriations at the request of the Board of Regents

1 FOR AN ACT ENTITLED, An Act to authorize the South Dakota Building Authority and the
2 Board of Regents to implement the long-term capital project request of the Board of
3 Regents, providing for the construction, remodeling, or renovation of various structures on
4 the campuses of the state's universities and the School for the Deaf, to make appropriations
5 therefor, and to repeal certain previous capital project authorizations.

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

7 Section 1. It is in the public interest that the South Dakota Building Authority contract for
8 the construction, completion, furnishing, equipping, and maintaining of, including heating, air
9 conditioning, plumbing, water, sewer, electric facilities, sidewalks, parking, landscaping,
10 architectural and engineering services, asbestos abatement, removal of existing roofing and
11 structures, and such other services or actions as may be required to accomplish the projects
12 enumerated in section 3 of this Act, all at the estimated cost of one hundred million eight
13 hundred thousand dollars. The South Dakota Building Authority may finance up to sixty-five
14 million one hundred thousand dollars of the construction costs through the issuance of revenue
15 bonds, in accordance with this Act and chapter 5-12.



1 Section 2. In addition to those projects approved in section 1 of this Act, the Board of
2 Regents may contract for the construction, completion, furnishing, equipping, and maintaining
3 of, including heating, air conditioning, plumbing, water, sewer, electric facilities, architectural
4 and engineering services, asbestos abatement, removal of existing roofing and structures, and
5 such other services as may be required to accomplish the projects enumerated in section 4 of this
6 Act, all at the estimated cost of one million sixty-eight thousand eight hundred and nine dollars.

7 Section 3. The projects authorized in section 1 of this Act, to be financed, in whole or in
8 part, through the issuance of revenue bonds by the South Dakota Building Authority, are the
9 following:

- 10 (1) The Woodburn Hall renovation at Black Hills State University in Spearfish, South
11 Dakota, for an estimated cost of five million four hundred thousand dollars;
- 12 (2) The utility infrastructure renovation at Dakota State University in Madison, South
13 Dakota, for an estimated cost of three million dollars;
- 14 (3) The Lincoln Hall and Graham Hall renovation at Northern State University in
15 Aberdeen, South Dakota, for an estimated cost of three million dollars;
- 16 (4) The chemistry building replacement at the South Dakota School of Mines and
17 Technology In Rapid City, South Dakota, for an estimated cost of sixteen million
18 dollars, of which no more than ten million dollars may be financed through the
19 issuance of revenue bonds;
- 20 (5) The Shepard Hall renovation or replacement space at South Dakota State University
21 in Brookings, South Dakota, for an estimated cost of thirty million dollars, of which
22 no more than twenty-four million dollars may be financed through the issuance of
23 revenue bonds;
- 24 (6) The classroom building construction at USDSU in Sioux Falls, South Dakota, for an

1 estimated cost of seven million seven hundred thousand dollars;

2 (7) The graduate education and research center construction at USDSU in Sioux Falls,
3 South Dakota, for an estimated cost of fifteen million dollars, of which no more than
4 two million dollars may be financed through the issuance of revenue bonds;

5 (8) The Slagle Hall renovation at the University of South Dakota in Vermillion, South
6 Dakota, for an estimated cost of six million six hundred thousand dollars, of which
7 no more than four million six hundred thousand dollars may be financed through the
8 issuance of revenue bonds; and

9 (9) The business school replacement at the University of South Dakota in Vermillion,
10 South Dakota, for an estimated cost of fourteen million one hundred thousand
11 dollars, of which no more than five million four hundred thousand dollars may be
12 financed through the issuance of revenue bonds.

13 Section 4. The projects authorized in section 2 of this Act are the following:

14 (1) The construction of an addition to the Pugsley Continuing Education Center at South
15 Dakota State University in Brookings, South Dakota, for an estimated cost of five
16 hundred two thousand two hundred eighty-nine dollars from other funds made
17 available to the university from donations for its early childhood development
18 program; and

19 (2) The renovation of the Myklebust Recreational Center at the South Dakota School for
20 the Deaf in Sioux Falls, South Dakota, for an estimated cost of five hundred sixty-six
21 thousand five hundred twenty dollars, of which five hundred sixteen thousand five
22 hundred twenty dollars (\$516,520) are appropriated from other funds available to the
23 School for the Deaf and fifty thousand dollars (\$50,000) are appropriated from
24 moneys allocated to this project by the Bureau of Administration from the statewide

1 maintenance and repair fund established in § 5-14-30.

2 Section 5. The authorizations granted under section 1 of this Act, and all necessary
3 appropriations required to finance and to complete such projects, remain effective through
4 June 30, 2015. However, no bonds may be issued under the authority of this Act if such issuance
5 would violate the restriction established in § 13-51-2.

6 Section 6. All cost estimates contained in this Act have been stated in terms of 2004 values.
7 The Building Authority and the Board of Regents may adjust such cost estimates to reflect
8 inflation as measured by the Building Cost Index reported by the Engineering News Record. The
9 amount of bonded indebtedness authorized in section 1 of this Act is not subject to such
10 adjustment.

11 Section 7. No indebtedness, bond, or obligation incurred or created under the authority of
12 this Act may be or may become a lien, charge, or liability against the State of South Dakota, nor
13 against the property or funds of the State of South Dakota within the meaning of the
14 Constitution or statutes of the state.

15 Section 8. The Building Authority and the Board of Regents may accept, transfer, and
16 expend any property or funds obtained for these purposes from federal sources, gifts,
17 contributions, or any other source, all of which shall be deemed appropriated to the projects
18 authorized by this Act in addition to the amounts otherwise authorized by this Act.

19 Section 9. The administration of the design and construction of the projects authorized in
20 this Act shall be under the general charge and supervision of the Bureau of Administration as
21 provided in chapter 5-14. The executive director of the Board of Regents and the executive
22 secretary of the Building Authority, or their designees, shall approve vouchers and the state
23 auditor shall draw warrants to pay expenditures authorized by this Act.

24 Section 10. The Board of Regents may make and enter into a lease agreement with the

1 Building Authority and make rental payments under the terms thereof, pursuant to chapter 5-12,
2 from the higher education facilities fund for the purposes of this Act.

3 Section 11. That subdivision (9) of section 3 of chapter 95 of the 2001 Session Laws be
4 repealed.

5 ~~—(9)—The Shepard Hall renovation or replacement space at the South Dakota State~~
6 ~~University in Brookings, South Dakota, for an estimated cost of twenty million~~
7 ~~dollars of which no more than eleven million eight hundred thousand dollars may be~~
8 ~~financed for the Shepard Hall renovation or replacement space through the issuance~~
9 ~~of revenue bonds.~~

10 Section 12. That subdivision (2) of section 4 of chapter 95 of the 2001 Session Laws be
11 repealed.

12 ~~—(2)—The new business school at the University of South Dakota in Vermillion, South~~
13 ~~Dakota, for an estimated cost of twelve million eight hundred thousand dollars which~~
14 ~~may be funded from federal sources and private donations;~~

15 Section 13. That subdivision (5) of section 4 of chapter 95 of the 2001 Session Laws be
16 repealed.

17 ~~—(5)—The Slagle Auditorium renovation at the University of South Dakota in Vermillion,~~
18 ~~South Dakota, for an estimated cost of three million five hundred thousand dollars~~
19 ~~which may be funded from federal sources and private donations.~~

20 Section 14. Notwithstanding the provisions of § 13-51-2, no money from the state general
21 fund, student tuition fees, the educational facilities fund, nor any money appropriated for
22 statewide maintenance and repair, may be used to finance the maintenance and repair of the
23 facilities specified in this Act.

State of South Dakota

EIGHTIETH
LEGISLATIVE ASSEMBLY, 2005

400L0320 **HOUSE APPROPRIATIONS COMMITTEE ENGROSSED**
NO. HB 1051 - 02/14/2005

Introduced by: The Committee on Appropriations at the request of the Department of Game,
Fish and Parks

1 FOR AN ACT ENTITLED, An Act to authorize the South Dakota Building Authority to
2 provide for the construction, reconstruction, renovation, and modernization of fish hatchery
3 facilities and infrastructure at Blue Dog State Fish Hatchery at Blue Dog Lake, Cleghorn
4 State Fish Hatchery at Rapid City, and McNenny Fish Hatchery at Spearfish for the
5 Department of Game, Fish and Parks.

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

7 Section 1. It is in the public interest that the South Dakota Building Authority contract for
8 the construction, reconstruction, renovation, modernization, and the furnishing, equipping, and
9 maintaining of fish hatchery facilities and related infrastructure at the Blue Dog State Fish
10 Hatchery at Blue Dog Lake, the Cleghorn State Fish Hatchery at Rapid City, and the McNenny
11 Fish Hatchery at Spearfish, including buildings, fixtures, plumbing, water, sewer, electric
12 facilities, water pumping infrastructure, domestic water treatment systems, asbestos removal,
13 electrical upgrades, upgraded and modernized fish rearing units, water handling systems,
14 architectural, engineering, and bonding services, site preparation, construction of facilities and
15 improvements to the outside of the fish hatcheries, and landscaping the grounds of the facilities.



1 The Building Authority may finance this project, including the issuance of revenue bonds not
2 to exceed ten million dollars, in accordance with this Act and chapter 5-12.

3 Section 2. No indebtedness, bond, or obligation incurred or created under authority of this
4 Act may be or may become a lien, charge, or liability against the State of South Dakota, nor
5 against the property or funds of the State of South Dakota within the meaning of the
6 Constitution or statutes of South Dakota.

7 Section 3. The Building Authority may accept and expend in addition to the amount
8 specified in section 1 of this Act for the purpose stated in the section, any funds obtained from
9 gifts, contributions, or other sources for the purpose.

10 Section 4. The Department of Game, Fish and Parks may make and enter in a lease
11 agreement with the Building Authority and make rental payments under the terms thereof,
12 pursuant to chapter 5-12, from appropriations to be made by the Legislature for the payment of
13 rent to support the construction, completion, furnishing, equipping, and payment of revenue
14 bonds issued pursuant to section 1 of this Act. All amounts so appropriated shall be repaid by
15 transfers from the Department of Game, Fish and Parks fund.

16 Section 5. Upon receipt of payment of the balance of the total cost, the Building Authority
17 shall convey the fish hatcheries to the Department of Game, Fish and Parks pursuant to § 5-12-
18 15.

19 Section 6. The design and construction of such fish hatcheries shall be under the general
20 charge and supervision of the Bureau of Administration as provided in § 5-14-2. The Bureau
21 of Administration and the Department of Game, Fish and Parks shall approve vouchers and the
22 state auditor shall draw warrants to pay expenditures authorized by this Act.

23 Section 7. Notwithstanding the provisions of § 13-51-2, no money from the state general
24 fund, student tuition fees, the educational facilities fund, nor any money appropriated for

- 1 statewide maintenance and repair, may be used to finance the maintenance and repair of the
- 2 facilities specified in this Act.

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
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

942L0482

HOUSE JUDICIARY COMMITTEE ENGROSSED NO. **SB 97** - 02/14/2005

Introduced by: Senator Schoenbeck and Representative Peters

1 FOR AN ACT ENTITLED, An Act to establish a maximum value for certain protected
2 homesteads.

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

4 Section 1. That § 43-31-1 be amended to read as follows:

5 43-31-1. The homestead of every family, resident in this state, as hereinafter defined, so long
6 as it continues to possess the character of a homestead is exempt from judicial sale, from
7 judgment lien, and from all mesne or final process from any court, to the extent and as provided
8 ~~in this code, except that~~ by statute. However, a creditor or lien holder of a mobile home
9 classified as a homestead under § 43-31-2 prior to January 1, 1973 ~~shall,~~ may not be cut off ~~or~~
10 and is not subject to a homestead exemption. In addition, ~~the~~ a homestead with a value of less
11 than one hundred seventy thousand dollars of a person seventy years of age or older, and the
12 unmarried surviving spouse of such person, is exempt from sale for taxes for so long as it
13 continues to possess the character of a homestead, ~~is exempt from sale for taxes.~~



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.

State of South Dakota

EIGHTIETH SESSION
LEGISLATIVE ASSEMBLY, 2005

637L0292

SENATE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **SB 151** - 02/07/2005

Introduced by: Senators Hanson (Gary), Abdallah, Broderick, Duenwald, Gant, Greenfield, Hundstad, Koskan, Lintz, Moore, Peterson (Jim), and Sutton (Dan) and Representatives Sigdestad, Dennert, Dykstra, Garnos, Glover, Halverson, Hargens, Hennies, Klaudt, Rhoden, Thompson, and Valandra

1 FOR AN ACT ENTITLED, An Act to permit the cremation and inurnment of indigents in lieu
2 of burial and to revise and clarify certain provisions regarding indigent funeral expenses.

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

4 Section 1. That § 28-17-1 be amended to read as follows:

5 28-17-1. If any person ~~shall die~~ dies within any county, who ~~shall~~ does not have the money
6 or means necessary to defray ~~his~~ the funeral expenses, and whose relatives or friends are unable
7 or unwilling to defray the ~~same~~, ~~it shall be the duty of~~ funeral expenses, the county
8 commissioners ~~to~~ shall employ a person to provide for and superintend the burial or cremation
9 and inurnment of such deceased person. However, if the board of county commissioners adopts
10 a general policy of cremation, the board shall, nevertheless, provide for burial if the next of kin
11 of the indigent decedent makes an objection to cremation within seventy-two hours.

12 Section 2. That § 28-17-2 be amended to read as follows:

13 28-17-2. Whenever any ~~person who is destitute and has no estate shall die~~ destitute person
14 dies within the state, and ~~who has~~ no one is legally bound for the funeral expenses, and ~~where~~



1 there is no other source to pay the cost of burial ~~expense, cremation, or inurnment~~, the funeral
2 expenses shall ~~then~~ be borne by the county in which the deceased was a resident at time of
3 death, ~~and if~~. If no residence can be fixed, then by the county in which death occurred shall bear
4 the funeral expenses.

5 Section 3. That § 28-17-3 be amended to read as follows:

6 28-17-3. The selection of a funeral director shall be made by the next of kin, if any,
7 otherwise by the county commissioner in whose district the death occurred. In no case ~~shall~~ may
8 the county commissioners advertise for bids on burial of indigent poor. However, in the case
9 of selection of a funeral director by the next of kin, the county is not bound to bear any unusual,
10 extraordinary, or unnecessary funeral expense.

11 Section 4. That § 28-17-4 be amended to read as follows:

12 28-17-4. On county burials, the funeral director in charge shall furnish casket and outside
13 container or, in the case of cremation, urn and conduct the funeral services in customary form;
14 ~~and the~~. The county shall allow the funeral director for merchandise and such services rendered,
15 a sum to be established by resolution of the board of county commissioners in such county at
16 their organizational meeting.

17 Section 5. That § 28-17-5 be amended to read as follows:

18 28-17-5. In addition to the burial expenses provided in § 28-17-4, the county commissioners
19 may contract with cemeteries within the state for burial space in a cemetery and the opening and
20 closing of the grave or may contract for an appropriate disposition of the cremated remains.

21 Section 6. That § 28-17-6 be amended to read as follows:

22 28-17-6. The necessary and reasonable expenses of burial under this chapter shall be paid
23 by the county treasurer, upon the order of such commissioners; ~~and if~~. If the decedent ~~shall have~~
24 had an established residency according to § 28-13-3 in a county in this state different from that

1 in which ~~he died~~ the death occurred, the county paying ~~such~~ the funeral expenses shall be
2 reimbursed by the county in which the decedent had an established residency. ~~When the person~~
3 ~~so dying shall be~~ If the decedent was an honorably discharged United States soldier, sailor,
4 marine, or aviator, the funeral shall be conducted and expenses paid as provided in chapter 33-
5 19.

State of South Dakota

EIGHTIETH SESSION
LEGISLATIVE ASSEMBLY, 2005

690L0690

SENATE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **SB 171** - 02/05/2005

Introduced by: Senators Schoenbeck and Sutton (Dan) and Representatives Murschel, McLaughlin, Roberts, and Valandra

1 FOR AN ACT ENTITLED, An Act to prohibit certain officials from voting if a conflict of
2 interest exists.

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

4 Section 1. No county, municipal, or school official may vote on any issue in which the
5 official has a conflict of interest. Each official shall decide if any potential conflict of interest
6 requires such official to be disqualified from voting. However, no such official may vote on an
7 issue if the following circumstances apply:

8 (1) The official has a direct pecuniary interest in the matter before the governing body;
9 or

10 (2) At least two-thirds of the governing body votes that an official has an identifiable
11 conflict of interest that should prohibit such official from voting on a specific matter.

12 If an official with a direct pecuniary interest votes on a matter before the governing body,
13 the legal sole remedy is to invalidate that official's vote.

