



# State of South Dakota

EIGHTIETH  
LEGISLATIVE ASSEMBLY, 2005

886L0071

**HOUSE GOVERNMENT OPERATIONS AND AUDIT  
COMMITTEE ENGROSSED NO. **HB 1004** -  
02/15/2005**

Introduced by: Representatives Klaudt and Lange and Senators Koskan, Duniphan, and Moore at the request of the Committee on Government Operations & Audit

1 FOR AN ACT ENTITLED, An Act to require that certain financial information concerning fund  
2 balances be reported to the Legislature.

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

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

6 The commissioner of the Bureau of Finance and Management shall report, upon request, a  
7 condition statement for any fund that receives funding from the federal government.



# State of South Dakota

EIGHTIETH  
LEGISLATIVE ASSEMBLY, 2005

868L0072

**HOUSE GOVERNMENT OPERATIONS AND AUDIT  
COMMITTEE ENGROSSED NO. **HB 1005** -  
02/15/2005**

Introduced by: Representatives Klaudt and Lange and Senators Koskan, Duniphan, and Moore at the request of the Committee on Government Operations & Audit

1 FOR AN ACT ENTITLED, An Act to provide for the deposit and appropriation of certain  
2 federal reimbursements.

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

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

6 Indirect cost reimbursements received from the federal government shall be deposited in the  
7 fund that incurred the indirect costs. Funds of the Board of Regents are exempt from this  
8 requirement.

9 Section 2. The state treasurer shall transfer that portion of cash balances in federal funds that  
10 have accumulated in each fund over two hundred fifty thousand dollars as of June thirtieth due  
11 to indirect cost reimbursements received from the federal government to those funds that  
12 incurred the indirect cost expenditures. Funds of the Board of Regents are exempt from this  
13 requirement.



# State of South Dakota

EIGHTIETH SESSION  
LEGISLATIVE ASSEMBLY, 2005

785L0075

HOUSE EDUCATION COMMITTEE ENGROSSED NO.

**HB 1073** - 02/15/2005

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

Introduced by: Representatives Dykstra, McCoy, McLaughlin, Schafer, and Weems and  
Senators Duenwald, Lintz, McNenny, Olson (Ed), and Smidt

1 FOR AN ACT ENTITLED, An Act to decrease the financial incentives for school districts that  
2 consolidate after July 1, 2008.

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

4 Section 1. That § 13-6-92 be amended to read as follows:

5 13-6-92. If two or more school districts consolidate after July 1, 2001 and before July 1,  
6 2008, the new school district is entitled to an additional three hundred dollars per average daily  
7 membership as defined in § 13-13-10.1, up to a maximum of four hundred average daily  
8 membership from each school district or partial school district as it existed prior to  
9 consolidation for the first year after consolidation. If two or more school districts consolidate  
10 after July 1, 2001 and before July 1, 2008, the new school district is entitled to an additional two  
11 hundred dollars per average daily membership as defined in § 13-13-10.1, up to a maximum of  
12 four hundred average daily membership from each school district or partial school district as it  
13 existed prior to consolidation for the second year after consolidation. If two or more school  
14 districts consolidate after July 1, 2001 and before July 1, 2008, the new school district is entitled



1 to an additional one hundred dollars per average daily membership as defined in § 13-13-10.1,  
2 up to a maximum of four hundred average daily membership from each school district or partial  
3 school district as it existed prior to consolidation for the third year after consolidation.

4 Section 2. That § 13-6-92 be amended to read as follows:

5 13-6-92. If two or more school districts consolidate after July 1, ~~2001~~ 2008, the new school  
6 district is entitled to an additional ~~three~~ two hundred dollars per average daily membership as  
7 defined in § 13-13-10.1, up to a maximum of four hundred average daily membership from each  
8 school district or partial school district as it existed prior to consolidation for the first year after  
9 consolidation. If two or more school districts consolidate after July 1, ~~2001~~ 2008, the new  
10 school district is entitled to an additional ~~two~~ one hundred dollars per average daily membership  
11 as defined in § 13-13-10.1, up to a maximum of four hundred average daily membership from  
12 each school district or partial school district as it existed prior to consolidation for the second  
13 year after consolidation. ~~If two or more school districts consolidate after July 1, 2001, the new~~  
14 ~~school district is entitled to an additional one hundred dollars per average daily membership as~~  
15 ~~defined in § 13-13-10.1, up to a maximum of four hundred average daily membership from each~~  
16 ~~school district or partial school district as it existed prior to consolidation for the third year after~~  
17 ~~consolidation.~~

18 Section 3. Section 2 of this Act is effective on July 1, 2008.

# State of South Dakota

EIGHTIETH SESSION  
LEGISLATIVE ASSEMBLY, 2005

671L0610

SENATE TRANSPORTATION COMMITTEE  
ENGROSSED NO. **HB 1111** - 02/10/2005

Introduced by: Representatives Krebs, Buckingham, Dykstra, Lange, McLaughlin, Michels,  
and Weems and Senators Olson (Ed), Abdallah, Bartling, Earley, Hundstad,  
Koskan, and Peterson (Jim)

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the records required  
2 to be kept by certain dealers and to require that certain liens be paid by a dealer before a  
3 vehicle, snowmobile, mobile or manufactured home, or boat is offered for sale, sold, or  
4 exchanged.

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

6 Section 1. That § 32-6B-20 be amended to read as follows:

7 32-6B-20. Each dealer licensed under the provisions of this chapter, shall keep books,  
8 records, or files, in such form as prescribed or approved by the department. ~~The dealer shall~~  
9 ~~keep a record of the purchase, sale, or exchange, of any vehicle, a description of the vehicle,~~  
10 ~~together with the name and address of the owner or other person from whom the vehicle was~~  
11 ~~purchased or received, and to whom it was sold or delivered. The description shall include the~~  
12 ~~vehicle identification number, manufacturer's make and model, and odometer mileage. The~~  
13 ~~dealer shall also possess a certificate of title from the previous owner of any vehicle not~~  
14 ~~purchased from the manufacturer, from the time the vehicle is delivered to the dealer until it has~~



1 ~~been disposed of by the dealer. However, for any vehicle with a manufacturer's weight of sixteen~~  
2 ~~thousand pounds or greater, if a copy of the front and back of any certificate of title which has~~  
3 ~~been assigned to the dealer is kept at the location where the vehicle is being offered for sale, the~~  
4 ~~certificate of title for the vehicle may be kept at another South Dakota dealership owned by the~~  
5 ~~same dealer or kept by a lending institution. Prior to keeping any certificate of title at another~~  
6 ~~dealership or at a lending institution, the dealer shall notify the department in writing where the~~  
7 ~~certificate of title is to be kept. Such record shall be open to inspection by any peace officer or~~  
8 ~~department dealer inspector, including the following:~~

- 9       (1) A record of the purchase, sale, or exchange, of any vehicle;  
10       (2) A description of each vehicle purchased, sold, or exchanged, together with the name  
11             and address of the owner or other person from whom the vehicle was purchased or  
12             received and to whom it was sold or delivered. The description shall include the  
13             vehicle identification number, manufacturer's make and model, and odometer  
14             mileage; and  
15       (3) A certificate of title from the previous owner of any vehicle not purchased from the  
16             manufacturer, from the time the vehicle is delivered to the dealer until it has been  
17             disposed of by the dealer.

18       The books and records and other papers and documents shall, at all times during business  
19 hours of the day, be subject to inspection by the secretary of revenue and regulation.

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

22       A dealer is not required to keep a certificate of title for any vehicle with a manufacturer's  
23 weight of sixteen thousand pounds or greater if a copy of the front and back of the certificate  
24 of title which has been assigned to the dealer is kept at the location where the vehicle is being

1 offered for sale and the original certificate of title for the vehicle is kept at another South Dakota  
2 dealership owned by the same dealer or kept by a lending institution.

3 Prior to keeping any certificate of title at another dealership or at a lending institution, the  
4 dealer shall notify the department in writing where the certificate of title is to be kept.

5 Section 3. That chapter 32-6B be amended by adding thereto a NEW SECTION to read as  
6 follows:

7 A dealer may offer for sale, sell, or exchange a vehicle without a certificate of title if the  
8 dealer complies with the following applicable provisions:

- 9 (1) The dealer has a record of purchase, sale, or exchange of a vehicle to include the  
10 satisfaction of any outstanding liens or encumbrances and a secured power of  
11 attorney;
- 12 (2) If the vehicle is encumbered by a lien noted on the title, the dealer shows that  
13 payment has been tendered to the lienholder for the amount of the lien, except a lien  
14 that is the result of dealer inventory financing; or
- 15 (3) If the dealer is required by law to obtain title prior to offering the vehicle for sale and  
16 the dealer has applied for title through the electronic on-line title system and has  
17 submitted the documents to the department.

18 This section does not relieve a dealer from the provisions of § 32-3-7.

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

21 If a person trades in a vehicle to a dealer or enters into a consignment agreement with a  
22 dealer whereby the dealer will sell the vehicle and the vehicle has a lien noted on the title, the  
23 dealer and person may agree that the dealer shall satisfy the lien amount by paying the lienholder  
24 who is noted on the title. Failure to satisfy a lien pursuant to this section constitutes theft

1 pursuant to chapter 22-30A. The degree of theft is determined by the amount of the unsatisfied  
2 lien. Multiple violations of this section occurring within any thirty-day period may be  
3 aggregated in amount to determine the degree of theft.

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

6 If a dealer enters into an agreement pursuant to section 4 of this Act, the dealer shall satisfy  
7 the lien within ten business days after the receipt of funds. No dealer may offer the vehicle for  
8 sale until payment has been tendered to the lienholder, except on a consigned vehicle, whereby  
9 the dealer shall comply with the terms of the consignment agreement.

10 Section 6. That § 32-6C-6 be amended to read as follows:

11 32-6C-6. Any dealer licensed under the provisions of this chapter, shall keep books, records,  
12 or files, in such form as prescribed or approved by the department. ~~The licensee shall keep a~~  
13 ~~record of the purchase, sale, or exchange, of any snowmobile, a description of the snowmobile~~  
14 ~~together with the name and address of the owner or other person from whom the snowmobile~~  
15 ~~was purchased or received, and to whom it was sold or delivered. The description shall include~~  
16 ~~the snowmobile serial number, manufacturer's make, and model. The dealer shall also have in~~  
17 ~~his possession a certificate of title from the previous owner of any snowmobile not purchased~~  
18 ~~from the manufacturer from the time the snowmobile is delivered to him until it has been~~  
19 ~~disposed of by him. Such record shall be opened to inspection by any law enforcement officer~~  
20 ~~or department inspector, including the following:~~

21 (1) A record of the purchase, sale, or exchange, of any snowmobile;

22 (2) A description of each snowmobile purchased, sold, or exchanged, together with the  
23 name and address of the owner or other person from whom the snowmobile was  
24 purchased or received and to whom it was sold or delivered. The description shall

1 include the snowmobile identification number and manufacturer's make and model;  
2 and

3 (3) A certificate of title from the previous owner of any snowmobile not purchased from  
4 the manufacturer, from the time the snowmobile is delivered to the dealer until it has  
5 been disposed of by the dealer.

6 The books and records and other papers and documents shall, at all times during business  
7 hours of the day, be subject to inspection by the secretary of revenue and regulation.

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

10 A dealer may offer for sale, sell, or exchange a snowmobile without a certificate of title if  
11 the dealer complies with the following applicable provisions:

12 (1) The dealer has a record of purchase, sale, or exchange of a snowmobile to include the  
13 satisfaction of any outstanding liens or encumbrances and a secured power of  
14 attorney;

15 (2) If the snowmobile is encumbered by a lien noted on the title, the dealer shows that  
16 payment has been tendered to the lienholder for the amount of the lien, except a lien  
17 that is the result of dealer inventory financing; or

18 (3) If the dealer is required by law to obtain title prior to offering the snowmobile for sale  
19 and the dealer has applied for title through the electronic on-line title system and has  
20 submitted the documents to the department.

21 This section does not relieve a dealer from the provisions of § 32-3-7.

22 Section 8. That chapter 32-6C be amended by adding thereto a NEW SECTION to read as  
23 follows:

24 If a person trades in a snowmobile to a dealer or enters into a consignment agreement with

1 a dealer whereby the dealer will sell the snowmobile and the snowmobile has a lien noted on  
2 the title, the dealer and person may agree that the dealer shall satisfy the lien amount by paying  
3 the lienholder who is noted on the title. Failure to satisfy a lien pursuant to this section  
4 constitutes theft pursuant to chapter 22-30A. The degree of theft is determined by the amount  
5 of the unsatisfied lien. Multiple violations of this section occurring within any thirty-day period  
6 may be aggregated in amount to determine the degree of theft.

7 Section 9. That chapter 32-6C be amended by adding thereto a NEW SECTION to read as  
8 follows:

9 If a dealer enters into an agreement pursuant to section 8 of this Act, the dealer shall satisfy  
10 the lien within ten business days after the receipt of funds. No dealer may offer the snowmobile  
11 for sale until payment has been tendered to the lienholder, except on a consigned snowmobile,  
12 whereby the dealer shall comply with the terms of the consignment agreement.

13 Section 10. That § 32-7A-12 be amended to read as follows:

14 32-7A-12. ~~Every~~ Any dealer or manufacturer licensed under the provisions of this chapter,  
15 shall keep ~~a record~~ books, records, or files, in such form as may be prescribed by the  
16 Department of Revenue and Regulation. ~~The licensee shall keep a record of the purchase, sale~~  
17 ~~or exchange, or receipt for the purpose of sale, of any mobile home or manufactured home. The~~  
18 ~~licensee shall also keep a record of a description of the home together with the name and address~~  
19 ~~of the seller, the purchaser, or other person from whom it was received or to whom it was~~  
20 ~~delivered, including the following:~~

- 21 (1) A record of the purchase, sale, or exchange, of any mobile or manufactured home;  
22 (2) A description of each mobile or manufactured home purchased, sold, or exchanged,  
23 together with the name and address of the owner or other person from whom the  
24 mobile or manufactured home was purchased or received and to whom it was sold

1           or delivered. The description shall include the mobile or manufactured home  
2           identification number and manufacturer's make and model; and

3           (3) A certificate of title from the previous owner of any mobile or manufactured home  
4           not purchased from the manufacturer, from the time the mobile or manufactured  
5           home is delivered to the dealer until it has been disposed of by the dealer.

6           The books and records and other papers and documents shall, at all times during business  
7           hours of the day, be subject to inspection by the secretary of revenue and regulation.

8           Section 11. That chapter 32-7A be amended by adding thereto a NEW SECTION to read  
9 as follows:

10           A dealer may offer for sale, sell, or exchange a mobile or manufactured home without a  
11 certificate of title if the dealer complies with the following applicable provisions:

12           (1)   The dealer has a record of purchase, sale, or exchange of a mobile or manufactured  
13           home to include the satisfaction of any outstanding liens or encumbrances and a  
14           secured power of attorney;

15           (2)   If the mobile or manufactured home is encumbered by a lien noted on the title, the  
16           dealer shows that payment has been tendered to the lienholder for the amount of the  
17           lien, except a lien that is the result of dealer inventory financing; or

18           (3)   If the dealer is required by law to obtain title prior to offering the mobile or  
19           manufactured home for sale and the dealer has applied for title through the electronic  
20           on-line title system and has submitted the documents to the department.

21           This section does not relieve a dealer from the provisions of § 32-3-7.

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

24           If a person trades in a mobile or manufactured home to a dealer or enters into a consignment

1 agreement with a dealer whereby the dealer will sell the mobile or manufactured home and the  
2 mobile or manufactured home has a lien noted on the title, the dealer and person may agree that  
3 the dealer shall satisfy the lien amount by paying the lienholder who is noted on the title. Failure  
4 to satisfy a lien pursuant to this section constitutes theft pursuant to chapter 22-30A. The degree  
5 of theft is determined by the amount of the unsatisfied lien. Multiple violations of this section  
6 occurring within any thirty-day period may be aggregated in amount to determine the degree of  
7 theft.

8 Section 13. That chapter 32-7A be amended by adding thereto a NEW SECTION to read  
9 as follows:

10 If a dealer enters into an agreement pursuant to section 12 of this Act, the dealer shall satisfy  
11 the lien within ten business days after the receipt of funds. No dealer may offer the mobile or  
12 manufactured home for sale until payment has been tendered to the lienholder, except on a  
13 consigned mobile or manufactured home, whereby the dealer shall comply with the terms of the  
14 consignment agreement.

15 Section 14. That § 32-7B-9 be amended to read as follows:

16 32-7B-9. Any dealer licensed under the provisions of this chapter, shall keep books, records,  
17 or files, in such form as prescribed or approved by the department. ~~The licensee shall keep a~~  
18 ~~record of the purchase, sale or exchange, of any boat, a description of the boat together with the~~  
19 ~~name and address of the owner or other person from whom the boat was purchased or received,~~  
20 ~~and to whom it was sold or delivered for a period of five years. The description shall include~~  
21 ~~the boat serial number, manufacturer's make and model. The dealer shall also have in possession~~  
22 ~~a certificate of title from the previous owner of any boat not purchased from the manufacturer~~  
23 ~~from the time the boat is delivered to the dealer until it has been disposed of by the dealer. Such~~  
24 ~~record shall be opened to inspection by any law enforcement law officer or department~~

1 inspector, including the following:

2 (1) A record of the purchase, sale, or exchange, of any boat;

3 (2) A description of each boat purchased, sold, or exchanged, together with the name and  
4 address of the owner or other person from whom the boat was purchased or received  
5 and to whom it was sold or delivered. The description shall include the boat  
6 identification number and manufacturer's make and model; and

7 (3) A certificate of title from the previous owner of any boat not purchased from the  
8 manufacturer, from the time the boat is delivered to the dealer until it has been  
9 disposed of by the dealer.

10 The books and records and other papers and documents shall, at all times during business  
11 hours of the day, be subject to inspection by the secretary of revenue and regulation.

12 Section 15. That chapter 32-7B be amended by adding thereto a NEW SECTION to read as  
13 follows:

14 A dealer may offer for sale, sell, or exchange a boat without a certificate of title if the dealer  
15 complies with the following applicable provisions:

16 (1) The dealer has a record of purchase, sale, or exchange of a boat to include the  
17 satisfaction of any outstanding liens or encumbrances and a secured power of  
18 attorney;

19 (2) If the boat is encumbered by a lien noted on the title, the dealer shows that payment  
20 has been tendered to the lienholder for the amount of the lien, except a lien that is the  
21 result of dealer inventory financing; or

22 (3) If the dealer is required by law to obtain title prior to offering the boat for sale and  
23 the dealer has applied for title through the electronic on-line title system and has  
24 submitted the documents to the department.

1 This section does not relieve a dealer from the provisions of § 32-3-7.

2 Section 16. That chapter 32-7B be amended by adding thereto a NEW SECTION to read as  
3 follows:

4 If a person trades in a boat to a dealer or enters into a consignment agreement with a dealer  
5 whereby the dealer will sell the boat and the boat has a lien noted on the title, the dealer and  
6 person may agree that the dealer shall satisfy the lien amount by paying the lienholder who is  
7 noted on the title. Failure to satisfy a lien pursuant to this section constitutes theft pursuant to  
8 chapter 22-30A. The degree of theft is determined by the amount of the unsatisfied lien.  
9 Multiple violations of this section occurring within any thirty-day period may be aggregated in  
10 amount to determine the degree of theft.

11 Section 17. That chapter 32-7B be amended by adding thereto a NEW SECTION to read as  
12 follows:

13 If a dealer enters into an agreement pursuant to section 16 of this Act, the dealer shall satisfy  
14 the lien within ten business days after the receipt of funds. No dealer may offer the boat for sale  
15 until payment has been tendered to the lienholder, except on a consigned boat, whereby the  
16 dealer shall comply with the terms of the consignment agreement.

# State of South Dakota

EIGHTIETH SESSION  
LEGISLATIVE ASSEMBLY, 2005

209L0582

HOUSE EDUCATION COMMITTEE ENGROSSED NO.

**HB 1140** - 02/15/2005

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

Introduced by: Representatives Buckingham, Bradford, Brunner, Dykstra, Elliott, Hargens, McCoy, Roberts, and Schafer and Senators Peterson (Jim), Bartling, Gray, Hansen (Tom), Hanson (Gary), Kloucek, Koetzle, Kooistra, Moore, Nesselhuf, Olson (Ed), and Sutton (Dan)

1 FOR AN ACT ENTITLED, An Act to revise the calculation of state aid to education.

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

3 Section 1. The calculation of state aid to education as defined in § 13-13-10.1 shall be  
4 amended as follows:

5 (1) Revise the index factor to more accurately reflect current economic conditions;

6 (2) Revise the definition of average daily membership to include a sparsity factor;

7 (3) Base state aid calculations on the data from the current school year rather than the  
8 previous school year;

9 (4) Set a minimum average daily membership that a school district must maintain in  
10 order to be eligible to receive state aid to education; and

11 (5) Distribute certain other revenues to school districts without regard to where the  
12 revenues were collected.

13 The revisions to the formula outlined in this Act shall be implemented on a multi-year basis,



1 and they may not result in a higher percentage of statewide local effort.

# State of South Dakota

EIGHTIETH SESSION  
LEGISLATIVE ASSEMBLY, 2005

906L0539

HOUSE TAXATION COMMITTEE ENGROSSED NO.

**HB 1141** - 02/15/2005

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

Introduced by: Representatives Koistinen, Cutler, Dennert, McLaughlin, Michels, Miles, Novstrup, Van Etten, Weems, and Wick and Senators McCracken, Adelstein, Dempster, Kelly, Knudson, Moore, and Schoenbeck

1 FOR AN ACT ENTITLED, An Act to revise certain provisions on how real property sales are  
2 used to assess real property and to lower the general fund levies of school districts.

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

4 Section 1. That § 10-6-74 be amended to read as follows:

5 10-6-74. Any real property which sells for more than one hundred ~~fifty~~ sixty percent of its  
6 assessed value, may not be used for the purpose of valuing other real property. The sale of any  
7 real property which is not used for the purpose of valuing other real property pursuant to this  
8 section may not be used in any sales ratio study.

9 Section 2. For taxes payable in 2007, the levy for the general fund of a school district, as  
10 provided in § 10-12-42, shall be lowered by:

11 (1) Eleven cents per thousand dollars of taxable valuation subject to the limitations on  
12 agricultural property as provided in subdivision (2) of this section, owner-occupied  
13 property as provided for in subdivision (3) of this section, and nonagricultural  
14 acreage property as provided for in subdivision (4) of this section;



1 (2) Three cents per thousand dollars of taxable valuation for agricultural property;

2 (3) Five cents per thousand dollars of taxable valuation for an owner-occupied  
3 single-family dwelling as defined in § 10-13-40; and

4 (4) Three cents per thousand dollars of taxable valuation for nonagricultural acreage  
5 property.

6 This rate reduction is in addition to any other adjustment made by the Eighty-first  
7 Legislature of the State of South Dakota to the levy for the general fund of a school district as  
8 provided in § 10-12-42.

9 Section 3. That § 10-6-74 be amended to read as follows:

10 10-6-74. Any real property which sells for more than ~~one hundred fifty~~ one hundred seventy-  
11 five percent of its assessed value, may not be used for the purpose of valuing other real property.

12 The sale of any real property which is not used for the purpose of valuing other real property  
13 pursuant to this section may not be used in any sales ratio study.

14 Section 4. That § 10-6-74 be amended to read as follows:

15 10-6-74. Any real property which sells for more than ~~one hundred fifty~~ one hundred ninety  
16 percent of its assessed value, may not be used for the purpose of valuing other real property. The

17 sale of any real property which is not used for the purpose of valuing other real property  
18 pursuant to this section may not be used in any sales ratio study.

19 Section 5. That § 10-6-74 be amended to read as follows:

20 10-6-74. Any real property which sells for more than ~~one hundred fifty~~ two hundred ten  
21 percent of its assessed value, may not be used for the purpose of valuing other real property. The

22 sale of any real property which is not used for the purpose of valuing other real property  
23 pursuant to this section may not be used in any sales ratio study.

24 Section 6. That § 10-6-74 be repealed.

1 ~~10-6-74. Any real property which sells for more than one hundred fifty percent of its~~  
2 ~~assessed value, may not be used for the purpose of valuing other real property. The sale of any~~  
3 ~~real property which is not used for the purpose of valuing other real property pursuant to this~~  
4 ~~section may not be used in any sales ratio study.~~

5 Section 7. Section 3 of this Act is effective on July 1, 2007.

6 Section 8. Section 4 of this Act is effective on July 1, 2009.

7 Section 9. Section 5 of this Act is effective on July 1, 2011.

8 Section 10. Section 6 of this Act is effective on July 1, 2012.

# State of South Dakota

EIGHTIETH SESSION  
LEGISLATIVE ASSEMBLY, 2005

308L0677

HOUSE EDUCATION COMMITTEE ENGROSSED NO.

**HB 1149** - 02/15/2005

Introduced by: Representatives Dennert, Deadrick, Glenski, Pederson (Gordon), and Rave  
and Senators Bartling, Hanson (Gary), and Moore

1 FOR AN ACT ENTITLED, An Act to allow for cross-border education contracts.

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

3 Section 1. That chapter 13-15 be amended by adding thereto a NEW SECTION to read as  
4 follows:

5 A student who resides in a South Dakota school district contiguous to the North Dakota  
6 border may attend school in North Dakota, and a student who resides in a North Dakota school  
7 district contiguous to the South Dakota border may attend school in South Dakota, if the  
8 secretary of the Department of Education has entered into a contract with the North Dakota  
9 superintendent of public instruction for the cross-border attendance of eligible students. Any  
10 contract pursuant to this Act shall prescribe an application procedure, causes for denial, and  
11 manner and notification of acceptance.

12 Section 2. That chapter 13-15 be amended by adding thereto a NEW SECTION to read as  
13 follows:

14 Any contract entered under this Act shall authorize the secretary of the Department of  
15 Education to count any North Dakota student participating in cross-border attendance for the



1 purposes of determining state aid to education pursuant to chapter 13-13. No South Dakota  
2 student attending school in North Dakota may be counted in determining attendance for state  
3 aid purposes.

4 Section 3. That chapter 13-15 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 A contract entered under this Act shall provide that if there are more students from South  
7 Dakota than North Dakota participating in cross-border attendance, the secretary of the  
8 Department of Education shall forward to the North Dakota superintendent of public instruction,  
9 on behalf of each excess student, an amount annually agreed to by the secretary and the  
10 superintendent that reflects the average cost of education per student in school districts  
11 participating in cross-border attendance in accordance with the contract. The contract must also  
12 provide that if there are more students from North Dakota than South Dakota participating in  
13 cross-border attendance under this Act, the superintendent shall forward to the secretary, on  
14 behalf of each excess student, an amount annually agreed to by the superintendent and the  
15 secretary reflecting the average cost of education per student in the school districts participating  
16 in cross-border attendance in accordance with the contract.

17 Section 4. That chapter 13-15 be amended by adding thereto a NEW SECTION to read as  
18 follows:

19 The secretary of the Department of Education shall annually reconcile the number of  
20 students from each school district in this state who participate in cross-border attendance under  
21 this section with the number of students from school districts in North Dakota who participate  
22 in cross-border attendance under this Act.

23 Section 5. That chapter 13-15 be amended by adding thereto a NEW SECTION to read as  
24 follows:

1           A student who requires special education services may participate in cross-border attendance  
2 under this Act, if the contract entered into sets forth each school district's and each state's  
3 responsibilities for payment of any excess costs incurred as a result of providing the services to  
4 the student.

# State of South Dakota

EIGHTIETH SESSION  
LEGISLATIVE ASSEMBLY, 2005

668L0723

HOUSE EDUCATION COMMITTEE ENGROSSED NO.

**HB 1170** - 02/15/2005

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

Introduced by: Representative Heineman

1 FOR AN ACT ENTITLED, An Act to provide for the certification of distance learning  
2 providers and to authorize the Board of Education to promulgate rules relating to distance  
3 learning courses.

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

5 Section 1. Terms in this Act mean:

6 (1) "Distance learning," the technology and educational process used to provide  
7 instruction when the student and primary instructor are not physically present at the  
8 same time or place;

9 (2) "Distance learning provider," a school or organization that provides distance learning  
10 courses.

11 Section 2. No distance learning provider may provide courses through distance learning to  
12 any student in an accredited elementary or secondary school in this state unless the distance  
13 learning provider has a certificate issued by the secretary of the Department of Education  
14 authorizing the distance learning provider to provide the courses.

15 Section 3. The South Dakota Board of Education shall promulgate rules pursuant to chapter



1 1-26 establishing the requirements and criteria that an applying entity must meet in order to be  
2 issued a distance learning provider's certificate by the secretary of the Department of Education  
3 authorizing the entity to provide courses through distance learning. The rules shall specify the  
4 duration and the method of renewal, the amount of the fee, not to exceed one hundred dollars,  
5 for issuing the certificate, the application procedures for certificates, the requirements for  
6 certification, and other procedures necessary for the administration of distance learning provider  
7 certification.

8 Section 4. The board shall also promulgate rules pursuant to chapter 1-26 establishing  
9 priorities and eligibility for distance learning courses.

# State of South Dakota

EIGHTIETH SESSION  
LEGISLATIVE ASSEMBLY, 2005

544L0717

HOUSE COMMERCE COMMITTEE ENGROSSED NO.

**HB 1218** - 02/15/2005

Introduced by: Representatives Hunhoff, Glenski, Hennies, Miles, Putnam, and Rausch and  
Senators Adelstein, Broderick, Dempster, and Knudson

1 FOR AN ACT ENTITLED, An Act to provide disclosure of fee schedules between health  
2 carriers and participating providers.

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

4 Section 1. That § 58-17C-14 be amended to read as follows:

5 58-17C-14. A health carrier offering a managed care plan shall satisfy all the following  
6 requirements:

- 7 (1) A health carrier shall establish a mechanism by which the participating provider will  
8 be notified on an ongoing basis of the specific covered health services for which the  
9 provider will be responsible, including any limitations or conditions on services;
- 10 (2) In no event may a participating provider collect or attempt to collect from a covered  
11 person any money owed to the provider by the health carrier nor may the provider  
12 have any recourse against covered persons for any covered charges in excess of the  
13 copayment, coinsurance, or deductible amounts specified in the coverage, including  
14 covered persons who have a health savings account;
- 15 (3) The provisions of §§ 58-17C-7 to 58-17C-26, inclusive, do not require a health



1 carrier, its intermediaries or the provider networks with which they contract, to  
2 employ specific providers or types of providers that may meet their selection criteria,  
3 or to contract with or retain more providers or types of providers than are necessary  
4 to maintain an adequate network;

5 (4) A health carrier shall notify participating providers of the providers' responsibilities  
6 with respect to the health carrier's applicable administrative policies and programs,  
7 including payment terms, utilization review, quality assessment, and improvement  
8 programs, grievance procedures, data reporting requirements, confidentiality  
9 requirements, and any applicable federal or state programs;

10 (5) A health carrier may not prohibit or penalize a participating provider from discussing  
11 treatment options with covered persons irrespective of the health carrier's position on  
12 the treatment options, from advocating on behalf of covered persons within the  
13 utilization review or grievance processes established by the carrier or a person  
14 contracting with the carrier or from, in good faith, reporting to state or federal  
15 authorities any act or practice by the health carrier that jeopardizes patient health or  
16 welfare;

17 (6) A health carrier shall contractually require a provider to make health records  
18 available to the carrier upon request but only those health records necessary to  
19 process claims, perform necessary quality assurance or quality improvement  
20 programs, or to comply with any lawful request for information from appropriate  
21 state authorities. Any person that is provided records pursuant to this section shall  
22 maintain the confidentiality of such records and may not make such records available  
23 to any other person who is not legally entitled to the records;

24 (7) A health carrier and participating provider shall provide at least sixty days written

1 notice to each other before terminating the contract without cause. If a provider is  
2 terminated without cause or chooses to leave the network, upon request by the  
3 provider or the covered person and upon agreement by the provider to follow all  
4 applicable network requirements, the carrier shall permit the covered person to  
5 continue an ongoing course of treatment for ninety days following the effective date  
6 of contract termination. In the event of a covered person that has entered a second  
7 trimester of pregnancy at the time of contract termination as specified in this section,  
8 the continuation of network coverage through that provider shall extend to the  
9 provision of postpartum care directly related to the delivery;

10 (8) A health carrier shall notify the participating providers of their obligations, if any, to  
11 collect applicable coinsurance, copayments, or deductibles from covered persons  
12 pursuant to the evidence of coverage, or of the providers' obligations, if any, to notify  
13 covered persons of their personal financial obligations for noncovered services;

14 (9) A health carrier shall establish a mechanism by which the participating providers may  
15 determine in a timely manner whether or not a person is covered by the carrier;

16 (10) A health carrier shall make available to any participating provider, upon request, the  
17 fee schedule, allowable fee, or other information that could apply to services  
18 furnished by such participating provider. For purposes of this subdivision, fee  
19 schedule means the total financial compensation that may be paid to the participating  
20 provider for providing a health care service as determined by the participating  
21 contract between the health carrier and the provider, inclusive of withholding  
22 amounts and any coinsurance, copayments, and deductibles for which the patient or  
23 other third party may be obligated to pay under the benefit contract. Disclosure of this  
24 information does not constitute a guarantee of payment under the terms of the

1 applicable benefit contract. Any person who receives information pursuant to this  
2 subdivision shall maintain the confidentiality of such information and may not make  
3 such information available to any other person who is not legally entitled to the  
4 information. A health carrier is only obligated to honor two such requests made  
5 annually by such participating provider.

# State of South Dakota

EIGHTIETH SESSION  
LEGISLATIVE ASSEMBLY, 2005

992L0758

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1220** - 02/16/2005

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

Introduced by: Representatives Rhoden, Dykstra, Gillespie, Hargens, and Michels and  
Senators Bogue, Hanson (Gary), Koskan, Moore, and Schoenbeck

1 FOR AN ACT ENTITLED, An Act to revise the calculation of state aid to general education  
2 and appropriate money therefor.

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

4 Section 1. There is hereby appropriated from the state general fund, after the transfer of  
5 earnings from the education enhancement trust fund created in Article XII, section 6 of the  
6 South Dakota Constitution, the sum of two million seven hundred fifty-eight thousand seven  
7 hundred seventy-one dollars (\$2,758,771), or so much thereof as may be necessary, to the  
8 Department of Education for distribution through the foundation formula in chapter 13-13.

9 Section 2. That § 13-13-10.1 be amended to read as follows:

10 13-13-10.1. Terms used in this chapter mean:

11 (1) "Average daily membership," the average number of resident and nonresident  
12 kindergarten through twelfth grade pupils enrolled in all schools operated by the  
13 school district during the previous regular school year, minus average number of  
14 pupils for whom the district receives tuition, except pupils described in subdivision



1 (1A) and pupils for whom tuition is being paid pursuant to § 13-28-42 and plus the  
2 average number of pupils for whom the district pays tuition;

3 (1A) Nonresident students who are in the care and custody of the Department of Social  
4 Services, the Unified Judicial System, the Department of Corrections, or other state  
5 agencies and are attending a public school may be included in the average daily  
6 membership of the receiving district when enrolled in the receiving district. When  
7 counting a student who meets these criteria in its general enrollment average daily  
8 membership, the receiving district may begin the enrollment on the first day of  
9 attendance. The district of residence prior to the custodial transfer may not include  
10 students who meet these criteria in its general enrollment average daily membership  
11 after the student ceases to attend school in the resident district;

12 (2) "Adjusted average daily membership," calculated as follows:

13 (a) For districts with an average daily membership of two hundred or less,  
14 multiply 1.2 times the average daily membership;

15 (b) For districts with an average daily membership of less than six hundred, but  
16 greater than two hundred, raise the average daily membership to the 0.8293  
17 power and multiply the result times 2.98;

18 (c) For districts with an average daily membership of six hundred or more,  
19 multiply 1.0 times their average daily membership;

20 (3) "Index factor," is the annual percentage change in the consumer price index for urban  
21 wage earners and clerical workers as computed by the Bureau of Labor Statistics of  
22 the United States Department of Labor for the year before the year immediately  
23 preceding the year of adjustment or three percent, whichever is less;

24 (4) "Per student allocation," for school fiscal year ~~2005 is \$4,086.56~~ 2006 is \$4,235.71.

- 1 Each school fiscal year thereafter, the per student allocation is the previous fiscal  
2 year's per student allocation increased by the index factor;
- 3 (5) "Local need," the per student allocation multiplied by the adjusted average daily  
4 membership;
- 5 (6) "Local effort," the amount of ad valorem taxes generated in a school fiscal year by  
6 applying the levies established pursuant to § 10-12-42;
- 7 (7) "General fund balance," the unreserved fund balance of the general fund, less general  
8 fund exclusions plus, beginning with transfers made in fiscal year 2001, any transfers  
9 out of the general fund for the previous school fiscal year;
- 10 (8) "General fund balance percentage," is a school district's general fund balance divided  
11 by the school district's total general fund expenditures for the previous school fiscal  
12 year, the quotient expressed as a percent;
- 13 (9) "General fund base percentage," is the general fund balance percentage as of June 30,  
14 2000. However, the general fund base percentage can never increase and can never  
15 be less than twenty percent;
- 16 (10) "Allowable general fund balance," the fund base percentage multiplied by the  
17 district's general fund expenditures in the previous school fiscal year;
- 18 (11) "Imputed interest rate," the average prime rate for the preceding fiscal year minus 2.5  
19 percentage points;
- 20 (12) "General fund exclusions," revenue a school district has received from the imposition  
21 of the excess tax levy pursuant to § 10-12-43; revenue a school district has received  
22 from gifts, contributions, grants, or donations; revenue a school district has received  
23 under the provisions of §§ 13-6-92 to 13-6-96, inclusive; and any revenue in the  
24 general fund set aside for a noninsurable judgment.

# State of South Dakota

EIGHTIETH SESSION  
LEGISLATIVE ASSEMBLY, 2005

744L0744

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

**HB 1226 - 02/16/2005**

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

Introduced by: Representatives Bradford, Hargens, Valandra, and Van Norman and Senators Moore, Adelstein, Kooistra, and Olson (Ed)

1 FOR AN ACT ENTITLED, An Act to establish certain provisions regarding the custody and  
2 placement of Indian children.

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

4 Section 1. That § 26-7A-15 be amended to read as follows:

5 26-7A-15. The officer or party who takes a child into temporary custody, with or without  
6 a court order, except under a court order issued during a noticed hearing after an action has been  
7 commenced, shall immediately, without unnecessary delay in keeping with the circumstances,  
8 inform the child's parents, guardian, or custodian of the temporary custody and of the right to  
9 a prompt hearing by the court to determine whether temporary custody should be continued. If  
10 the child's parents, guardian, or custodian cannot be located after reasonable inquiry, the officer  
11 or party taking temporary custody of the child shall report that fact and the circumstances  
12 immediately to the state's attorney. The state's attorney shall notify the child's parents, guardian,  
13 or custodian, without unnecessary delay, of the time, date, and place of the temporary custody  
14 hearing. If the temporary custody hearing concerns an apparent abused or neglected Indian child



1 or an apparent Indian child in need of supervision pursuant to § 26-8B-3, the state's attorney or  
2 Department of Social Services shall make reasonable efforts to inform the Indian custodian and  
3 Indian child's tribe, if known, of the time, date, and place of the temporary custody hearing. The  
4 information regarding the temporary custody hearing may be provided to the Indian custodian  
5 or Indian child's tribe orally or in writing, including by telephone or facsimile. The hearing shall  
6 be held within forty-eight hours if it concerns any apparent abused or neglected child or if it  
7 concerns any apparent delinquent child pursuant to 26-8C-3 or within twenty-four hours if it  
8 concerns any apparent child in need of supervision pursuant to § 26-8B-3, excluding Saturdays,  
9 Sundays, and court holidays, after taking the child into temporary custody, unless extended by  
10 order of the court. Failure to notify the child's parents, guardian, or custodian, or to inform the  
11 Indian custodian or the Indian child's tribe, of the temporary custody hearing is not cause for  
12 delay of the hearing if the child is represented by an attorney at the hearing. As used in this  
13 section, the terms, Indian child, Indian custodian, and Indian child's tribe, are defined as in 25  
14 U.S.C. § 1903, as amended to January 1, 2005.

15 Section 2. That chapter 26-7A be amended by adding thereto a NEW SECTION to read as  
16 follows:

17 In any proceeding under chapters 26-7A, 26-8A, or 26-8B, to which the terms of the "Indian  
18 Child Welfare Act", 25 U.S.C. sec. 1901, et seq., as amended to January 1, 2005, apply:

19 (1) If the state's attorney knows or has reason to know that an Indian child is involved,  
20 the state's attorney shall notify the parent or Indian custodian and the Indian child's  
21 tribe, if known, of the pending proceedings and of their right of intervention. The  
22 notice shall be sent by registered mail with return receipt requested but may be  
23 personally served on any person entitled herein to receive notice in lieu of mail  
24 service. If the identity or location of the parent or Indian custodian and the Indian

1 child's tribe cannot be determined, the notice shall be given to the United States  
2 Secretary of the Interior in like manner, who has fifteen days after receipt to provide  
3 the requisite notice to the parent or Indian custodian and the tribe;

4 (2) The state's attorney shall provide such notice prior to any adjudicatory hearing and  
5 prior to any final dispositional hearing in which the state seeks termination of  
6 parental rights of one or both parents or termination of the rights of the Indian  
7 custodian. However, upon intervention, the parent, tribe, or Indian custodian is  
8 entitled to notice in the manner authorized by the Rules of Civil Procedure and  
9 chapters 26-7A and 26-8A;

10 (3) The court shall establish in the record that a notice of the proceeding was provided  
11 as required in this section. No foster care placement or termination of parental rights  
12 proceedings may be held until at least ten days after receipt of the foregoing notice  
13 by the parent or Indian custodian and the tribe or the Secretary. The parent or Indian  
14 custodian or the tribe shall, upon request, be granted up to twenty additional days to  
15 prepare for the proceeding;

16 (4) The notice required in this section shall be written in clear and understandable  
17 language and shall include the following:

- 18 (a) The name and tribal affiliation of the Indian child;
- 19 (b) A copy of the petition unless the notice is served by publication pursuant to  
20 26-7A-48;
- 21 (c) The name and address of the state's attorney;
- 22 (d) A statement listing the rights of the Indian child's parents, Indian custodians,  
23 and tribes, under the Indian Child Welfare Act, 25 U.S.C. § 1901, et. seq., as  
24 amended to January 1, 2005, including:

- 1 (i) The right of a Indian custodian or the Indian child's tribe to intervene
- 2 in a proceeding for the foster care placement of, or termination of
- 3 parental rights to, the Indian child;
- 4 (ii) The right to file a motion to transfer the proceeding to the tribal court
- 5 of the Indian child's tribe;
- 6 (iii) The right to be granted up to twenty days from the receipt of the notice
- 7 to prepare for the proceeding; and
- 8 (iv) The right to request that the court grant further extensions of time;
- 9 (e) A statement of the potential legal consequences of an adjudication on future
- 10 custodial rights of the Indian child's parents or Indian custodians;
- 11 (f) A statement that if the Indian child's parents or Indian custodian are unable to
- 12 afford counsel, counsel may be appointed to represent them;
- 13 (g) A statement in the notice to the tribe that the information contained in the
- 14 notice, petition, pleading, or other documents are confidential; and
- 15 (h) The location, mailing address and telephone number of the court.

16 The original or a copy of each notice sent pursuant to this section shall be filed with  
17 the court together with any return receipts or other proof of service;

18 (5) Each party may examine all reports or other documents filed with the court upon  
19 which any decision with respect to such action may be based.

20 As used in this section, the terms, Indian, Indian child, parent, Indian custodian, tribe, Indian  
21 child's tribe, foster care placement, termination of parental rights, and secretary, are defined as  
22 in 25 U.S.C. § 1903, as amended to January 1, 2005.

23 Section 3. That § 26-7A-55 be amended to read as follows:

24 26-7A-55. If all necessary parties admit the allegations contained in the petition and the

1 court accepts the admissions, the court may find, conclude and make a decision as to  
 2 adjudication of the child under the applicable provisions of chapter 26-8A, 26-8B, or 26-8C.  
 3 The court may then proceed with the dispositional phase of the proceedings without conducting  
 4 a formal adjudicatory hearing on the petition with the concurrence of all parties. However, at  
 5 the request of any party or if required by the court, the court shall set a later time and date for  
 6 the dispositional hearing. The court shall then determine interim dispositional arrangements  
 7 concerning the child and the parties.

8 If the petition is not admitted by all necessary parties, including the child, if appropriate, or  
 9 if the petition is denied by any necessary party or the child, if appropriate, the court shall  
 10 proceed with the adjudicatory hearing on the petition, if notice has been given as required by  
 11 section 2 of this Act, if applicable, or schedule the adjudicatory hearing for a later time and date.

12 If the advisory hearing is adjourned and continued or if the advisory hearing is completed  
 13 and the adjudicatory hearing on the petition is scheduled for a later time and date, the court shall  
 14 make an interim order regarding temporary custody of the child as determined by the court.

15 Section 4. The form of the notice provided for in section 2 of this Act is as follows:

16 STATE OF SOUTH DAKOTA ) IN CIRCUIT COURT  
 17 ) ss  
 18 COUNTY OF \_\_\_\_\_ ) \_\_\_\_ JUDICIAL CIRCUIT  
 19 THE PEOPLE OF THE STATE OF ) Juv. No. \_\_\_\_\_  
 20 SOUTH DAKOTA IN THE INTEREST )  
 21 OF \_\_\_\_\_, ) NOTICE TO PARENT, CUSTODIAN,  
 22 MINOR CHILD(REN), AND ) OR INDIAN TRIBE OF CHILD CUSTODY  
 23 CONCERNING \_\_\_\_\_, ) PROCEEDINGS (ICWA)  
 24 \_\_\_\_\_, )  
 25 RESPONDENTS. )

26 TO: [Name and Address of the Parent /Custodian/Tribe]:

1 PLEASE TAKE NOTICE that, pursuant to the Indian Child Welfare Act of 1978 (25 U.S.C.  
2 § 1912, et. seq.), a child custody proceeding is now pending in the above-named court. The  
3 child(ren) who (is/are) the subject of this proceeding (is/are) believed to be (an) "Indian  
4 child(ren)" (as defined in 25 U.S.C. § 1903(4)) affiliated with the \_\_\_\_\_ Tribe.

5 A HEARING HAS BEEN SCHEDULED FOR \_\_\_\_\_ [date] AT \_\_\_\_\_ [time] (a.m./p.m.)  
6 (CST/MST) IN THE COURTROOM OF THE \_\_\_\_\_ COUNTY COURTHOUSE, \_\_\_\_\_,  
7 SOUTH DAKOTA. A copy of the Petition by which this proceeding was initiated is attached.  
8 You are further notified that:

9 1. The following information is known regarding the parents, grandparents and Indian  
10 custodians:

11 a. The names and last known addresses of the parents, grandparents and great  
12 grandparents or Indian custodians are as follows:

13 b. Any maiden, married and former names and aliases are as follows:

14 c. Birthdates and places of birth and death are as follows:

15 d. Tribal enrollment number(s):

16 2. You, as the parent(s) or Indian custodian, and the child(ren)'s tribe, may have a right  
17 to intervene in these proceedings.

18 3. If you, as the parent(s) or Indian custodian, are unable to afford an attorney, an  
19 attorney may be appointed to represent you. If you desire a court-appointed attorney,  
20 you should contact the court using the information provided in paragraph 7 below.

21 4. You may have the right, as the parent(s), Indian custodian, or Indian tribe, to have,  
22 upon request, 20 additional days to prepare for the hearing. If you desire additional  
23 time to prepare for the hearing, you should contact the court using the information  
24 provided in paragraph 7 below.



# 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

400L0337

SENATE JUDICIARY COMMITTEE ENGROSSED NO.

**SB 25** - 02/02/2005

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

Introduced by: The Committee on Judiciary at the request of the Office of the Attorney General

1 FOR AN ACT ENTITLED, An Act to revise the purposes for which the extraordinary litigation  
2 fund may be used.

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

4 Section 1. That § 1-14-3.1 be amended to read as follows:

5 1-14-3.1. There is established in the state treasury the extraordinary litigation fund. The fund  
6 shall be maintained separately and administered by the Bureau of Administration. The fund may  
7 be used for plaintiff attorney fee awards, retention of outside counsel, settlement costs, or other  
8 ~~extraordinary~~ litigation expenses not otherwise eligible to be paid under § 3-22-1. Unexpended  
9 money and any interest that may be credited to the fund shall remain in the fund. The  
10 extraordinary litigation fund is hereby continuously appropriated and shall be budgeted through  
11 the informational budget process. The creation and funding of this fund does not constitute a  
12 waiver of the state's sovereign immunity.



# State of South Dakota

EIGHTIETH  
LEGISLATIVE ASSEMBLY, 2005

400L0336

## SENATE ENGROSSED NO. **SB 26** - 01/27/2005

Introduced by: The Committee on Judiciary at the request of the Office of the Attorney General

1 FOR AN ACT ENTITLED, An Act to provide monetary penalties for failure of tobacco  
2 distributors and wholesalers to comply with certain cigarette regulations.

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

4 Section 1. That § 10-50-80 be amended to read as follows:

5 10-50-80. No later than twenty days after the end of each calendar quarter, and more  
6 frequently if so directed by the secretary, each distributor and wholesaler shall submit  
7 information concerning each nonparticipating manufacturer as the secretary requires to facilitate  
8 compliance with §§ 10-50-72 to 10-50-92, inclusive, including, a list by brand family of the  
9 total number of cigarettes or, in the case of roll-your-own, the equivalent stick count, for which  
10 the distributor or wholesaler affixed cigarette tax stamps or imprints to a cigarette package, or  
11 otherwise paid the cigarette tax due during the previous calendar quarter. The distributor or  
12 wholesaler shall maintain and make available to the secretary all invoices and documentation  
13 of sales of all nonparticipating manufacturer cigarettes and any other information relied upon  
14 in reporting to the secretary for a period of six years. The secretary may, in addition to any other  
15 provision of law, impose and collect a monetary penalty in an amount not to exceed five



1 hundred dollars per day, for the failure of a distributor or wholesaler to timely or accurately  
2 comply with this section. Any monetary penalty collected pursuant to this section shall be  
3 deposited in the state general fund.

4 Section 2. That § 10-50-82 be amended to read as follows:

5 10-50-82. No distributor or wholesaler or other person may:

6 (1) Affix a South Dakota cigarette tax stamp or imprint to a package or other container  
7 of cigarettes, or pay South Dakota cigarette tax on cigarettes of a tobacco product  
8 manufacturer or brand family not included in the directory; or

9 (2) Sell or distribute, or acquire, hold, own, possess, transport, import, or cause to be  
10 imported, cigarettes of a tobacco product manufacturer or brand family not included  
11 in the directory that the distributor, wholesaler, or other person knows or should  
12 know are intended for distribution or sale in this state.

13 The secretary may, in addition to any other provision of law, impose and collect a monetary  
14 penalty in an amount not to exceed the greater of five hundred percent of the retail value of the  
15 cigarettes or five thousand dollars for each violation of this section by a distributor or  
16 wholesaler. Any monetary penalty collected pursuant to this section shall be deposited in the  
17 state general fund.

# 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

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

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.



# State of South Dakota

EIGHTIETH SESSION  
LEGISLATIVE ASSEMBLY, 2005

453L0572

SENATE TRANSPORTATION COMMITTEE

ENGROSSED NO. **SB 207** - 02/08/2005

Introduced by: Senators Apa, Greenfield, Hansen (Tom), Hundstad, Knudson, McNenny, and Napoli and Representatives Novstrup, Glover, Hargens, Weems, and Wick

1 FOR AN ACT ENTITLED, An Act to revise certain mobile and manufactured home provisions  
2 related to taxation, fees, titling, and penalties.

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

4 Section 1. That § 10-45-2.1 be amended to read as follows:

5 10-45-2.1. Sales of sectional homes are subject to sales tax, which shall be based upon the  
6 fair market value of the raw materials used to construct each home.

7 For the purpose of this section, "~~sectional homes~~" the term, sectional homes, means any  
8 home pre-built in whole or in part for the purpose of permanent placement on a foundation.  
9 Mobile homes as defined in subdivision 32-3-1(8) and manufactured homes as defined in  
10 subdivision 32-3-1(6) are not sectional homes.

11 Section 2. That § 10-46-5.1 be amended to read as follows:

12 10-46-5.1. If a sectional home is permanently affixed to real property, it is not a vehicle  
13 subject to registration under chapter 32-3, and shall be classified as real property. A contractor  
14 who erects such a home shall hold a sales tax or use tax license and pay use tax based upon the  
15 fair market value of the raw materials used to construct and erect the home.



1 For the purpose of this section, the term, sectional home, means any home pre-built in part  
2 or in whole for the purpose of permanent placement on a foundation. ~~A mobile home~~ Mobile  
3 homes as defined by subdivision 32-3-1(8) and manufactured homes as defined in subdivision  
4 32-3-1(6) is are not a sectional ~~home~~ homes.

5 Section 3. That § 32-5-16.1 be amended to read as follows:

6 32-5-16.1. In addition to any other license fees, registration fees, and compensation for the  
7 use of the highways, the registrant shall pay to the county treasurer upon application for the ~~first~~  
8 ~~or original~~ initial registration of a mobile home or manufactured home in this state, an additional  
9 license fee at the rate of ~~three~~ four percent of the purchase price of ~~such~~ the mobile home or  
10 manufactured home. ~~Purchase~~ The purchase price shall be established by a bill of sale.  
11 However, if a bill of sale is not available, the retail book value shall be used to establish the  
12 purchase price. The retail value ~~shall be~~ is the value in a nationally recognized dealer's guide  
13 adopted by the secretary. ~~The secretary shall file notice of adoption of the guide with the~~  
14 ~~secretary of state. Such adoption and filing is not subject to chapter 1-26. The payment of such~~  
15 ~~license fee shall be in full and in lieu of all occupational, sales, excise, privilege, and franchise~~  
16 ~~taxes levied by this state upon the gross receipts from all sales of mobile homes. The~~  
17 ~~governmental or public entities set forth in §§ 32-5-42 and 32-5-42.1, are exempted from the~~  
18 ~~initial registration imposed by this section. The payment of the initial registration fee is in lieu~~  
19 ~~of the tax imposed pursuant to chapters 10-45, 10-46, and 10-46A, and all other occupational,~~  
20 ~~sales, excise, privilege, and franchise taxes levied by this state upon the gross receipts from the~~  
21 ~~sale or installation of mobile or manufactured homes. The governmental or public entities set~~  
22 ~~forth in §§ 32-5-42 and 32-5-42.1 are exempted from the initial registration imposed by this~~  
23 section.

24 Section 4. That § 32-5-16.2 be amended to read as follows:

1       32-5-16.2. ~~Fifteen~~ Eleven and one-fourth percent of the ~~license~~ four percent initial  
2 registration fee prescribed by § 32-5-16.1 shall be deposited in the state motor vehicle fund to  
3 defray costs of titling, registration, and for unusual use of the highway. ~~The remaining~~  
4 ~~eighty-five~~ Sixty-three and three-fourths percent shall be distributed to the county highway and  
5 bridge fund in the county where the mobile or manufactured home is registered. The remaining  
6 twenty-five percent shall be distributed to the state general fund.

7       Section 5. That § 32-5-16.3 be amended to read as follows:

8       32-5-16.3. Any person who moves a mobile home or manufactured home shall obtain a  
9 permit, as prescribed by the secretary of revenue and regulation , from the county treasurer  
10 where the home is located. The permit ~~fee~~ is valid for a single trip from the point of origin to  
11 a point of destination within the state. Before the county treasurer may issue a permit, the owner  
12 of the mobile home or manufactured home or regulated lender as defined in § 54-3-14 that is  
13 repossessing the mobile home or manufactured home shall obtain an affidavit, as prescribed by  
14 the secretary of revenue and regulation , from the county treasurer stating that the current year's  
15 taxes are paid as described in §§ 10-21-36 to 10-21-39, inclusive, or § 10-9-3. The permit fee  
16 for mobile homes and manufactured homes for use on the public highways is fifteen dollars. The  
17 fees collected shall be credited to the license plate special revenue fund. The fee and permit  
18 imposed by this section does not apply to a new or used mobile home or manufactured home  
19 owned and transported by or for a dealer licensed under chapter 32-7A. A violation of this  
20 section is a Class 2 misdemeanor. A dealer shall obtain from the department self-issued permits  
21 and shall display a self-issued permit when moving a used or new mobile or manufactured  
22 home.

23       Section 6. That § 32-5-16.4 be repealed.

24       ~~32-5-16.4. Any transport of a used mobile home or manufactured home by a transporter shall~~

1 ~~be accompanied with a notification form, as prescribed by the secretary of revenue and~~  
2 ~~regulation, stating the point of origin and the point of destination. The transporter shall provide~~  
3 ~~a copy of the notification form to the director of equalization in the county of origin and the~~  
4 ~~county of destination. This section does not apply to any transport regulated under chapter 32-~~  
5 ~~7A. A violation of this section is a Class 2 misdemeanor.~~

6 Section 7. That § 32-5-16.5 be repealed.

7 ~~— 32-5-16.5. Any transport of a used mobile home or manufactured home by a transporter shall~~  
8 ~~be accompanied with an affidavit from the county treasurer of the county in which the used~~  
9 ~~mobile home or manufactured home is registered, stating that the current year's taxes are paid~~  
10 ~~as described in §§ 10-21-36 to 10-21-39, inclusive, or § 10-9-3. This section does not apply to~~  
11 ~~any transport regulated under chapter 32-7A. A violation of this section is a Class 2~~  
12 ~~misdemeanor.~~

13 Section 8. That § 32-5-16.6 be amended to read as follows:

14 32-5-16.6. If the owner of the used mobile home or manufactured home, prior to moving the  
15 home, fails to obtain an affidavit from the county treasurer of the county in which the used  
16 mobile home or manufactured home is registered, stating that the current year's taxes are paid  
17 as described in §§ 10-21-36 to 10-21-39, inclusive, or § 10-9-3, the ~~court~~ department shall  
18 assess a ~~civil~~ monetary penalty on the owner. If a regulated lender, as defined in § 54-3-14, is  
19 repossessing a used mobile home or manufactured home and fails to obtain an affidavit, prior  
20 to moving the home, from the county treasurer of the county in which the used mobile home or  
21 manufactured home is registered, stating that the current year's taxes are paid as described in  
22 §§ 10-21-36 to 10-21-39, inclusive, or § 10-9-3, the ~~court~~ department shall assess a ~~civil~~  
23 monetary penalty on the lender. The ~~court~~ department shall levy a ~~civil~~ monetary penalty of two  
24 hundred fifty dollars for the first violation within a one-year period, five hundred dollars for the

1 second violation within a one-year period, and one thousand dollars for each subsequent  
2 violation within a one-year period. All civil monetary penalties collected pursuant to this section  
3 shall be deposited in the ~~county general fund of the county in which the used mobile home or~~  
4 ~~manufactured home is registered~~ motor vehicle fund. The county treasurer shall notify the  
5 Department of Revenue and Regulation in writing of any violation ~~resulting in a civil penalty~~  
6 ~~assessment~~ for failure to obtain a tax affidavit prior to moving a mobile or manufactured home.

7 Section 9. That § 32-5-16.7 be amended to read as follows:

8 32-5-16.7. If a transporter of a used mobile home or manufactured home, prior to  
9 transporting, fails to obtain an affidavit from the county treasurer of the county in which the  
10 used mobile home or manufactured home is registered, stating that the current year's taxes are  
11 paid as described in §§ 10-21-36 to 10-21-39, inclusive, or § 10-9-3, the ~~court~~ department shall  
12 assess a civil monetary penalty on the transport owner. If a manufacturer or licensed dealer, as  
13 defined in chapter 32-7A, is moving, repossessing, trading, purchasing, or receiving onto the  
14 manufacturer's or licensed dealer's lot a used mobile home or manufactured home and fails to  
15 obtain an affidavit from the county treasurer of the county in which the used mobile home or  
16 manufactured home is registered, stating that the current year's taxes are paid as described in  
17 §§ 10-21-36 to 10-21-39, inclusive, or § 10-9-3, the ~~court~~ department shall assess a civil  
18 monetary penalty on the manufacturer or licensed dealer. The transporter or dealer who was  
19 responsible for moving the mobile or manufactured home is liable for any property taxes due  
20 the county.

21 The ~~court~~ department shall levy a civil monetary penalty of two hundred fifty dollars for the  
22 first violation within a one-year period, five hundred dollars for the second violation within a  
23 one-year period, and one thousand dollars for each subsequent violation within a one-year  
24 period. All civil monetary penalties collected pursuant to this section shall be deposited in the

1 ~~county general fund of the county in which the used mobile home or manufactured home is~~  
2 ~~registered~~ motor vehicle fund. The county treasurer shall notify the Department of Revenue and  
3 Regulation in writing of any violation ~~resulting in a civil penalty assessment~~ for failure to obtain  
4 a tax affidavit prior to moving a mobile or manufactured home.

5 Section 10. That § 32-5-16.8 be amended to read as follows:

6 32-5-16.8. For the purposes of §§ 32-5-16.6 and 32-5-16.7, if the owner, lender, licensed  
7 dealer, or transporter are the same party the ~~court~~ department may not assess multiple ~~civil~~  
8 monetary penalties for any one violation.

9 Section 11. That § 32-9-57 be amended to read as follows:

10 32-9-57. Any commercial motor carrier located in the state hauling a new trailer ~~or a new~~  
11 ~~or used manufactured or mobile home~~ with a manufacturer's statement of origin or certificate  
12 of title and who has registered with the Department of Revenue and Regulation as a transporter  
13 may use a transporter plate upon the streets and highways for in-transit purposes. The fee for  
14 a transporter plate is fifty dollars and the fee shall be deposited in the license plate special  
15 revenue fund. Any new trailer with a transporter plate may be used to haul other new trailers.  
16 No transporter may use a transporter plate for any other purpose. A violation of this section is  
17 a Class 1 misdemeanor.

18 Section 12. That § 32-9-57.1 be amended to read as follows:

19 32-9-57.1. The department may, pursuant to chapter 1-26, revoke or suspend the transporter  
20 plate issued pursuant § 32-9-57 which belongs to any transporter ~~who the court has assessed a~~  
21 ~~civil penalty pursuant to § 32-5-16.7 four or more times within a one-year period~~. It is a Class  
22 1 misdemeanor for any transporter to fail or refuse to surrender to the department upon its  
23 lawful demand any transporter plate which has been revoked or suspended.

24 Section 13. That chapter 32-5 be amended by adding thereto a NEW SECTION to read as

1 follows:

2 Any person against whom a penalty is assessed pursuant to section 8 or 9 of this Act may  
3 request a hearing before the secretary if the person believes that the assessment is based upon  
4 a mistake of fact or an error of law. A request for hearing shall be made in writing within twenty  
5 days from the date of the assessment and shall contain a statement indicating the mistake of fact  
6 or error of law the person believes resulted in an invalid assessment. Amended or additional  
7 statements of facts or errors of law may be made not less than fourteen days prior to the hearing  
8 if the hearing examiner determines such additional or amended statements are in the interest of  
9 justice and do not prejudice either party. Hearings are conducted and appeals taken pursuant to  
10 the provisions of chapters 1-26 and 1-26D.

11 A copy of the hearing examiner's proposed decision, findings of fact and conclusions of law  
12 shall be served on all parties when furnished to the secretary. If the secretary, pursuant to chapter  
13 1-26D, accepts the final decision of the hearing examiner, no appeal from a final decision of the  
14 secretary upon an assessment may be taken unless any amount ordered paid by the secretary is  
15 paid or a bond filed to insure payment of such amount. However, if the final decision of the  
16 secretary, pursuant to chapter 1-26D, rejects or modifies the decision of the hearing examiner  
17 regarding the amount due on the assessment, an appeal may be taken without payment of the  
18 amount ordered to be paid and without filing of a bond. If the secretary's decision is affirmed  
19 by the circuit court, no appeal may be taken unless any amount ordered to be paid by the  
20 secretary is paid or a bond is filed to insure payment of such amount.

21 Section 14. That § 32-7A-11 be amended to read as follows:

22 32-7A-11. New and used mobile homes and manufactured homes owned by a dealer may  
23 be transported upon the streets and highways to the dealer's place of business and to the  
24 purchaser of such a home and between a dealer's place of business and a supplemental lot or a

1 temporary supplemental lot. ~~Any mobile home or manufactured home purchased or transported~~  
2 ~~by or for a dealer shall be accompanied with a notification form stating the point of origin. The~~  
3 ~~dealer shall provide a copy of the notification form to the director of equalization in the county~~  
4 ~~of origin.~~

5 Section 15. That chapter 32-3 be amended by adding thereto a NEW SECTION to read as  
6 follows:

7 An owner of a mobile or manufactured home fixed to real property owned by the applicant  
8 may request that the title to the home be surrendered if a title has been issued in accordance with  
9 § 32-3-3.1 and payment of the initial registration fee has been made in accordance with § 32-5-  
10 16.1. A request shall be submitted on forms prescribed by the secretary. If the application and  
11 the request to surrender the statement of ownership are submitted simultaneously, the  
12 department shall only create an electronic record indicating ownership of the home and may not  
13 issue a paper title. The department may not notate any liens on a title if a paper title is not  
14 issued.

15 Section 16. That chapter 32-3 be amended by adding thereto a NEW SECTION to read as  
16 follows:

17 An owner of a mobile or manufactured home may choose to obtain a title on a mobile or  
18 manufactured home whose title was surrendered. Before the mobile or manufactured home is  
19 removed from real property, the owner shall submit to the department a current tax affidavit  
20 from the county treasurer in which the mobile or manufactured home was located and an  
21 affidavit stating that the home is no longer subject to a real property mortgage or any other liens.  
22 The owner shall also furnish the department an independent report that lists the legal description  
23 of the real estate upon which the mobile or manufactured home is located, any liens or  
24 encumbrances against the mobile or manufactured home or the real estate upon which the

1 mobile or manufactured home is located, and the current owner of the mobile or manufactured  
2 home. The independent report shall also contain an affidavit stating a lien search was conducted  
3 of all records of the register of deeds, clerk of courts, the treasurer in the county where the  
4 mobile or manufactured home is located, and the secretary of state and shall describe any liens  
5 revealed by that search. If any liens or encumbrances exist against the mobile or manufactured  
6 home, the applicant shall obtain a release from each lienholder prior to issuance of a title. The  
7 department is not responsible for any mistakes in the issuance of the title resulting from  
8 documents provided pursuant to this section.