



# State of South Dakota

EIGHTIETH  
LEGISLATIVE ASSEMBLY, 2005

717L0081

SENATE TAXATION COMMITTEE ENGROSSED NO.

**SB 2 - 01/26/2005**

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

Introduced by: Senators Lintz, Greenfield, Hundstad, and Peterson (Jim) and Representatives Hargens, Dadrick, Fryslie, and Rhoden at the request of the Interim Committee on Property Assessment

1 FOR AN ACT ENTITLED, An Act to revise the procedure for assessing certain agricultural  
2 property.

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

4 Section 1. That § 10-6-33.25 be amended to read as follows:

5 10-6-33.25. For the purposes of § 10-6-33.24, the agricultural income value shall be  
6 determined using capitalized annual cash rent. The annual cash rent is the annual cash rent,  
7 excluding the per acre tax on agricultural land, determined through an analysis of arms-length  
8 rental agreements collected within the county in the year three years prior to the year for which  
9 the agricultural income value is being determined. The agricultural income value of cropland  
10 shall be based on average rents over a three-year period for cropland under natural conditions.  
11 The agricultural income value of noncropland shall be based on average rents over a three-year  
12 period for noncropland under natural conditions. However, no arms-length rental agreements  
13 for irrigated land may be used to determine the annual cash rent pursuant to this section. The  
14 annual cash rent shall be capitalized at seven and three-fourths percent.



1       The secretary of revenue and regulation may enter into a contract for the collection of cash  
2       rent information by county. Cash rent information shall be adjusted by soil survey statistics, if  
3       available, and pursuant to section 2 of this Act.

4       Section 2. That chapter 10-6 be amended by adding thereto a NEW SECTION to read as  
5       follows:

6       The director of equalization shall annually determine the assessed value of agricultural land  
7       as defined by § 10-6-31.3. Any agricultural land assessed based on its agricultural income value  
8       pursuant to § 10-6-32.24 and 10-6-33.25 may be value adjusted by the following factors:

9       (1)    The capacity of the land to produce agricultural products as defined in § 10-6-33.2;  
10       and

11       (2)    The location, size, soil survey statistics, terrain, and topographical condition of the  
12       land including the climate, accessibility, and surface obstructions which can be  
13       documented.

14       Section 3. That chapter 10-6 be amended by adding thereto a NEW SECTION to read as  
15       follows:

16       If the median rent value per acre in an identifiable region within a county deviates by more  
17       than ten percent from the county median rent value per acre, the county director of equalization  
18       may establish a separate rent value per acre for the land defined by the director of equalization  
19       within that identifiable region.

# 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

400L0273

## SENATE APPROPRIATIONS COMMITTEE ENGROSSED NO. **SB 34** - 01/28/2005

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

1 FOR AN ACT ENTITLED, An Act to make an additional appropriation to construct a  
2 thermophilic anaerobic manure digestion system for the South Dakota Agricultural  
3 Experiment Station and to declare an emergency.

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

5 Section 1. That section 2 of chapter 113 of the 2004 Session Laws be amended to read as  
6 follows:

7 There is hereby appropriated ~~one million seven hundred fifty thousand dollars (\$1,750,000)~~  
8 two million nine hundred fourteen thousand dollars (\$2,914,000) from federal funds awarded  
9 to the South Dakota Agricultural Experiment Station for the purpose of constructing the facility  
10 described in section 1 of this Act.

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

15 Section 3. Whereas, this Act is necessary for the support of the state government and its



- 1 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in
- 2 full force and effect from and after its passage and approval.

# State of South Dakota

EIGHTIETH  
LEGISLATIVE ASSEMBLY, 2005

400L0343

## HOUSE COMMERCE COMMITTEE ENGROSSED NO. **SB 53** - 02/17/2005

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

1 FOR AN ACT ENTITLED, An Act to provide for adequate access to health care provider  
2 networks.

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

4 Section 1. That chapter 58-17C be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 Any person, directly or indirectly, offering a plan or program providing a discount on the  
7 fees of any provider of health care goods or services, that is not offered directly by a health  
8 carrier as provided by this chapter, shall register in a format as prescribed by the director and  
9 shall file reports and conduct business under the same standards as required of utilization review  
10 organizations in accordance with provisions of §§ 58-17C-65 to 58-17C-66, inclusive. No health  
11 carrier may offer or provide coverage through a person not registered but required to be  
12 registered pursuant to this Act. Any plan or program that is registered pursuant to § 58-17C-20  
13 is not required to maintain a separate registration pursuant to this Act. A plan or program of  
14 discounted goods or services that is offered by a health carrier in conjunction with a health  
15 benefit plan, as defined in §§ 58-18-42 and 58-17-66(9), or a medicare supplement policy as



1 defined in § 58-17A-1, is not required to be registered pursuant to this Act. A plan or program  
2 offered by a health care provider as defined in § 34-12C-1 is not required to register pursuant  
3 to this Act if the health care provider does not charge for the plan or program.

4 Section 2. That chapter 58-17C be amended by adding thereto a NEW SECTION as follows:

5 Any person subject to registration pursuant to section 1 of this Act shall prominently and  
6 boldly disclose that the product is not insurance. Any advertisements or solicitations made by  
7 such a person are subject to the provisions of §§ 58-33A-2 to 58-33A-4, inclusive, and §§ 58-  
8 33A-7 to 58-33A-8, inclusive, and §§ 58-33A-10 to 58-33A-12, inclusive. Any administrative  
9 rule promulgated pursuant to § 58-33A-7 does not apply to those registered pursuant to this Act  
10 unless specifically referenced in the rule. If any such person fails to comply with these  
11 provisions or the provisions of this Act, the director may take action in the same manner as  
12 provided for by § 58-17C-67 and may revoke the registration. Any such action by the director  
13 is subject to notice and hearing as provided by chapter 1-26 and § 58-4-7. A person acting as  
14 an agent as defined in chapter 58-30 who sells, solicits, or negotiates a plan or program  
15 containing insurance benefits shall meet the licensing and appointment requirements of that  
16 chapter if such person is otherwise required to be licensed by chapter 58-30.

17 Section 3. That chapter 58-17C be amended by adding thereto a NEW SECTION to read as  
18 follows:

19 No person subject to registration pursuant to section 1 of this Act may receive personal  
20 information, money, or other consideration for enrollment in a plan or program until the  
21 consumer has signed a contract or agreement with the person and no later than at the time the  
22 contract is signed, provides, at a minimum, the following information, disclosed in a clear and  
23 conspicuous manner:

24 (1) The name, true address, telephone number, and website address of the registered

- 1 person who is responsible for customer service;
- 2 (2) A detailed description of the plan or program, including the goods and services  
3 covered and all exemptions and discounts that apply to each category thereof;
- 4 (3) All costs associated with the plan or program, including any sign-up fee and any  
5 recurring costs;
- 6 (4) An internet website that is updated regularly or a paper copy where the consumer can  
7 access the names and addresses of all current participating providers in the  
8 consumer's area;
- 9 (5) A statement of the consumer's right to return the plan or program within thirty days  
10 of its delivery to the person or agent through whom it was purchased and to have all  
11 costs of the plan or program, excluding a nominal process fee refunded if, after  
12 examination of the plan or program, the purchaser is not satisfied with it for any  
13 reason;
- 14 (6) A statement of the consumer's right to terminate the plan or program at any time by  
15 providing written notice or other notice, the form to be used for the termination  
16 notice, and the address where the notice is to be sent if different than the address  
17 provided in subdivision (1); and
- 18 (7) Notice that the consumer is not obligated to make any further payments under the  
19 plan or program, nor is the consumer entitled to any benefits under the plan or  
20 program for any period of time after the last month for which payment has been  
21 made.

22 The requirement that the contract or agreement be signed prior to any money or  
23 consideration being obtained does not apply to a transaction in which payment by the consumer  
24 is made by credit card or by means of a telephonic transaction so long as the disclosures

1 required by this section are provided to the consumer by way of postal mail, facsimile, or  
2 electronic mail within ten business days of the consumer's enrollment.

3 Section 4. That chapter 58-17C be amended by adding thereto a NEW SECTION to read as  
4 follows:

5 Any plan or program offered by a person subject to registration pursuant to section 1 of this  
6 Act shall provide thirty days from the date of the signed consumer contract or agreement, thirty  
7 days from the receipt of the disclosures required by section 3 of this Act if the consumer  
8 purchased the plan or program over the telephone, or sixty days if payment is by automatic or  
9 electronic withdrawal from a bank account, in which the consumer may return the plan or  
10 program to the person or agent through whom it was purchased and have all costs of the plan  
11 or program, excluding a nominal processing fee as prescribed by the director by rules  
12 promulgated pursuant to chapter 1-26, refunded in full.

13 Section 5. That § 58-18-20 be amended to read as follows:

14 58-18-20. Any insurer authorized to write health insurance in this state ~~shall have the power~~  
15 ~~to~~ may issue blanket health insurance. No such blanket policy or certificate may be issued or  
16 delivered, or coverage solicited, in this state unless a copy of the form thereof ~~shall have~~ has  
17 been filed in accordance with § 58-11-12. Every such blanket policy or certificate shall contain  
18 provisions, which in the opinion of the director, are at least as favorable to the policyholder and  
19 the individual insured as those set forth in §§ 58-18-21 to 58-18-27, inclusive.

20 Section 6. Any person subject to registration pursuant to section 1 of this Act shall maintain  
21 a surety bond in the amount of twenty thousand dollars issued by a surety company authorized  
22 to do business in this state, or establish and maintain a surety account in the amount of twenty  
23 thousand dollars at a federally insured bank, savings and loan association, or federal savings  
24 bank located in this state. Each surety bond and surety account is subject to the following:

- 1       (1) A copy of the bond or a statement identifying the depository, trustee, and account  
2             number of the surety account, and thereafter proof of annual renewal of the bond or  
3             maintenance of the surety account, shall be filed with the director of the Division of  
4             Insurance;
- 5       (2) A surety account shall be maintained until two years after the date that the person  
6             subject to registration pursuant to section 1 of this Act ceases operations in the state.  
7             Funds from any surety account may not be released to the person subject to  
8             registration pursuant to section 1 of this Act without the specific consent of the  
9             attorney general;
- 10      (3) No surety on the bond of a person subject to registration pursuant to section 1 of this  
11             Act may cancel such bond without giving written notice thereof to the secretary of  
12             state. Whenever the secretary of state receives notice of a surety's intention to cancel  
13             the bond of a person subject to registration pursuant to section 1 of this Act, the  
14             secretary of state shall notify the affected person that, unless such person files another  
15             twenty thousand dollar surety bond with the secretary of state or establishes a twenty  
16             thousand dollar surety account on or before the cancellation date of such surety bond,  
17             then such person subject to registration pursuant to section 1 of this Act is no longer  
18             authorized to do business in this state;
- 19      (4) The bond or surety account shall be in favor of any person and the director of the  
20             Division of Insurance for the benefit of any person who is damaged by any violation  
21             of this Act, including any violation by the supplier or by any other person which  
22             markets, promotes, advertises, or otherwise distributes a discount card on behalf of  
23             the supplier. The bond shall cover any violation occurring during the time period  
24             during which the bond is in effect; and

1       (5) Any person claiming against the bond or surety account for a violation of this Act  
2           may maintain an action at law against the person subject to registration pursuant to  
3           section 1 of this Act and against the surety or trustee of the surety account. The  
4           aggregate liability of the surety or trustee of the surety account to all persons  
5           damaged by violations of this Act may not exceed the amount of the surety bond or  
6           account.

# State of South Dakota

EIGHTIETH  
LEGISLATIVE ASSEMBLY, 2005

400L0385

## SENATE ENGROSSED NO. **SB 66** - 01/27/2005

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

1 FOR AN ACT ENTITLED, An Act to provide certain options to school boards in  
2 reorganization, to increase the percentage of voters necessary to petition for school district  
3 reorganization, and to declare an emergency.

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

5 Section 1. That § 13-6-10 be amended to read as follows:

6 13-6-10. If the school board or the voters of two or more districts or parts of districts express  
7 a desire to consolidate their respective districts to create a new entity; or the school board or the  
8 voters of an existing district express a desire to divide the district to create one or more new  
9 entities; or the school board or the voters of an existing district express a desire to dissolve and  
10 be annexed to an existing district, the school board may by resolution, or shall, if presented by  
11 a petition signed by ~~fifteen~~ the lesser of one thousand registered voters or twenty percent of the  
12 registered voters residing in the district, based upon the total number of registered voters at the  
13 last preceding general election, develop a plan to accomplish the desire expressed in the  
14 resolution or contained in the petition. If more than one district is involved, their respective  
15 school boards shall act jointly in the preparation of the plan. Within fifteen days after a petition  
16 is filed as provided in this section, the school district shall acknowledge the receipt of the



1 petition in writing to the person who filed the petition. Within one hundred eighty days after the  
2 petition was filed, the school board shall develop the plan required in this section and shall file  
3 the plan as required in § 13-6-17. The Department of Education may grant two extensions of  
4 the filing deadline, not to exceed ninety days each.

5 The school board shall call conferences and hold hearings to develop the plan. The school  
6 board may employ a consultant. If the school boards involved in the creation of a plan initiated  
7 by a petitioner cannot agree on a single plan within the time allowed in this section, the  
8 Secretary of Education shall submit a plan to the voters of each affected school board within  
9 ninety days.

10 Section 2. Whereas, this Act is necessary for the immediate preservation of the public peace,  
11 health, or safety, an emergency is hereby declared to exist, and this Act shall be in full force and  
12 effect from and after its passage and approval.

# State of South Dakota

EIGHTIETH SESSION  
LEGISLATIVE ASSEMBLY, 2005

569L0202

## SENATE EDUCATION COMMITTEE ENGROSSED NO. **SB 72** - 01/27/2005

Introduced by: Senators Olson (Ed), Dempster, Duniphan, Knudson, McCracken, Moore, Peterson (Jim), and Sutton (Dan) and Representatives Dykstra, Dennert, Elliott, Haley, Halverson, Hennies, Hunt, McLaughlin, Murschel, Roberts, and Thompson

1 FOR AN ACT ENTITLED, An Act to include legal costs as allowable expenditures from the  
2 special education fund.

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

4 Section 1. That § 13-16-32 be amended to read as follows:

5 13-16-32. The South Dakota Board of Education may promulgate rules pursuant to chapter  
6 1-26 to identify allowable expenditures from the special education fund. Legal costs incurred  
7 by a school district as a direct result of providing special education or special education and  
8 related services to a child for whom the district is financially responsible are allowable  
9 expenditures. The allowable expenditures may include any legal costs incurred by the school  
10 district in the referral, evaluation, and placement processes as well as any other legal expenses  
11 for which the district is determined to be legally responsible to pay as a result of due process  
12 hearings.

13 Section 2. That § 13-37-48 be repealed.

14 ~~13-37-48. Extraordinary expenses in §§ 13-37-39 and 13-37-40 include the following costs~~



1 ~~associated with any special education due process hearing; the appointment of a hearing officer;~~  
2 ~~the hearing officer's preparation; conduct of the due process hearing; hearing officer's~~  
3 ~~preparation of the decision; and providing a copy of the tape recording to the opposing parties.~~  
4 ~~Notwithstanding any other provision of law or administrative rule, neither a school district's~~  
5 ~~special education tax levy nor any other measure of a school district's finances may be~~  
6 ~~considered factors by an oversight board and the secretary of the Department of Education when~~  
7 ~~approving special education due process hearings costs as extraordinary expenses.~~

# State of South Dakota

EIGHTIETH SESSION  
LEGISLATIVE ASSEMBLY, 2005

812L0477

SENATE COMMERCE COMMITTEE ENGROSSED NO.

**SB 83 - 01/25/2005**

Introduced by: Senators Kelly, Abdallah, Broderick, Dempster, Gant, Hundstad, McCracken, McNenny, Moore, and Olson (Ed) and Representatives Michels, Bradford, Cutler, Dadrick, Dykstra, Faehn, Frost, Garnos, Hargens, Hennies, Howie, Kraus, Krebs, McCoy, O'Brien, Rave, Rhoden, Sebert, Valandra, Weems, and Willadsen

1 FOR AN ACT ENTITLED, An Act to revise the seller's property condition disclosure  
2 statement.

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

4 Section 1. That § 43-4-44 be amended to read as follows:

5 43-4-44. The following form shall be used for the property condition disclosure statement:

6 SELLER'S PROPERTY CONDITION DISCLOSURE STATEMENT

7 (This disclosure shall be completed by the seller. This is a disclosure required by law. If you do  
8 not understand this form, seek legal advice.)

9 Seller \_\_\_\_\_

10 Property Address \_\_\_\_\_

11 \_\_\_\_\_

12 This Disclosure Statement concerns the real property identified above situated in the City of

13 \_\_\_\_\_ County of \_\_\_\_\_, State of South Dakota.



1 THIS STATEMENT IS A DISCLOSURE OF THE CONDITION OF THE ABOVE  
 2 DESCRIBED PROPERTY IN COMPLIANCE WITH § 43-4-38. IT IS NOT A WARRANTY  
 3 OF ANY KIND BY THE SELLER OR ANY AGENT REPRESENTING ANY PARTY IN  
 4 THIS TRANSACTION AND IS NOT A SUBSTITUTE FOR ANY INSPECTIONS OR  
 5 WARRANTIES THE PARTIES MAY WISH TO OBTAIN. Seller hereby authorizes any agent  
 6 representing any party in this transaction to provide a copy of this statement to any person or  
 7 entity in connection with any actual or anticipated sale of the property.

8 ~~IF ANY MATERIAL FACT COMES TO THE ATTENTION OF THE SELLER WHICH~~  
 9 ~~WOULD AFFECT ANY STATEMENT MADE BY THE SELLER FOLLOWING THE~~  
 10 ~~SIGNING OF THIS STATEMENT AND BEFORE THE TIME OF SETTLEMENT, THE~~  
 11 ~~SELLER SHALL NOTIFY THE BUYER AND ANY AGENT REPRESENTING ANY~~  
 12 ~~PARTY TO THIS TRANSACTION IN WRITING OF SUCH MATERIAL FACT OR OTHER~~  
 13 ~~INFORMATION~~ CHANGES BEFORE CONVEYANCE OF TITLE TO THIS PROPERTY,  
 14 THE SELLER MUST DISCLOSE SUCH MATERIAL FACT WITH A WRITTEN  
 15 AMENDMENT TO THIS DISCLOSURE STATEMENT.

16 I. LOT OR TITLE INFORMATION

17 1. When did you purchase or build the home? \_\_\_\_\_

18 If the answer is yes to any of the following, please explain under additional comments or on an  
 19 attached separate sheet.

20 2. Were there any title problems when you purchased the property?

21 Yes \_\_\_\_ No \_\_\_\_ ~~Unknown~~ \_\_\_\_

22 If yes, describe: \_\_\_\_\_

23 3. Are there any ~~unrecorded~~ or recorded liens or financial instruments against the property, other  
 24 than a first mortgage?

1 Yes \_\_\_\_ No \_\_\_\_ ~~Unknown \_\_\_\_~~

2 ~~If yes, explain: \_\_\_\_\_~~

3 4. Are there any unrecorded liens or financial instruments against the property, other than a first  
4 mortgage?

5 Yes \_\_\_\_ No \_\_\_\_ ~~Unknown \_\_\_\_~~

6 5. Are there any easements which have been granted in connection with the property (other than  
7 normal utility easements for public water and sewer, gas and electric service, telephone service,  
8 cable television service, drainage, and sidewalks)?

9 Yes \_\_\_\_ No \_\_\_\_ ~~Unknown \_\_\_\_~~

10 ~~If yes, explain on separate page and attach hereto.~~

11 56. Are there any problems related to establishing the lot lines/boundaries?

12 Yes \_\_\_\_ No \_\_\_\_ ~~Unknown \_\_\_\_~~

13 7. Do you have a location survey in your possession or a copy of the recorded plat? If yes, attach  
14 a copy.

15 Yes \_\_\_\_ No \_\_\_\_ ~~Unknown \_\_\_\_~~

16 ~~If yes, attach a copy of same.~~

17 68. Are you aware of any encroachments or shared features, from or on adjoining property (i.e.  
18 fences, driveway, sheds, outbuildings, or other improvements)?

19 Yes \_\_\_\_ No \_\_\_\_

20 ~~If yes, explain: \_\_\_\_\_~~

21 79. Are you aware of any covenants or restrictions affecting the use of the property in  
22 accordance with local law? If yes, attach a copy of the covenants and restrictions.

23 Yes \_\_\_\_ No \_\_\_\_

24 ~~If yes, attach a copy of the covenants and restrictions, if available.~~

1 810. Are you aware of any current or pending litigation, foreclosure, zoning, building code or  
 2 restrictive covenant violation notices, mechanic's liens, judgments, special assessments, zoning  
 3 changes, or changes that could affect your property?

4 Yes \_\_\_\_ No \_\_\_\_ Unknown \_\_\_\_

5 If yes, explain: \_\_\_\_\_  
 6 \_\_\_\_\_

7 911. Is the property currently occupied by the owner?

8 Yes \_\_\_\_ No \_\_\_\_

9 12. Does the property currently receive the owner occupied tax reduction pursuant to SDCL 32-  
 10 3-1?

11 Yes \_\_\_\_ No \_\_\_\_

12 13. Is the property currently part of a property tax freeze for any reason?

13 Yes \_\_\_\_ No \_\_\_\_ Unknown \_\_\_\_

14 14. If no, is Is the property leased?

15 Yes \_\_\_\_ No \_\_\_\_

16 If yes, please attach a copy of any written lease or a statement as to the terms and conditions of  
 17 the lease.

18 ~~1015~~. If leased, does the property use comply with local zoning laws, if any?

19 Yes \_\_\_\_ No \_\_\_\_ Unknown \_\_\_\_

20 ~~11. Is there ground rent? Yes \_\_\_\_ No \_\_\_\_ Unknown \_\_\_\_~~

21 If so, what is the ground rent payment (i.e. annually, semi-annually, monthly)? \$ \_\_\_\_\_  
 22 per \_\_\_\_\_

23 16. Does this property or any portion of this property receive rent? If yes, how much \$ \_\_\_\_\_ and  
 24 how often \_\_\_\_\_?

1 Yes \_\_\_\_\_ No \_\_\_\_\_

2 ~~17.~~ Do you pay any mandatory fees or special assessments to a homeowners' or condominium  
3 association?

4 Yes \_\_\_\_\_ No \_\_\_\_\_

5 If ~~so~~ yes, what are the fees or assessments? \$ \_\_\_\_\_ per \_\_\_\_\_ (i.e. annually, semi-annually,  
6 monthly)

7 Payable to whom: \_\_\_\_\_

8 For what purpose?: \_\_\_\_\_

9 ~~13. Does~~ 18. Are you aware if the property has ever have had standing water in either the front,  
10 rear, or side yard more than forty-eight hours after heavy rain?

11 Yes \_\_\_\_\_ No \_\_\_\_\_ Unknown \_\_\_\_\_

12 If yes, describe: \_\_\_\_\_

13 19. Is the property located in or near a flood plain?

14 Yes \_\_\_\_\_ No \_\_\_\_\_ Unknown \_\_\_\_\_

15 ~~14~~ 20. Are wetlands located upon any part of the property?

16 Yes \_\_\_\_\_ No \_\_\_\_\_ Unknown \_\_\_\_\_

17 If yes, describe: \_\_\_\_\_

18 ~~15. Are any features of the property (i.e. walls, fences, roads or driveways) shared in common~~  
19 ~~with adjoining landowners whose use or responsibility for maintenance may have an effect on~~  
20 ~~the property?~~

21 Yes \_\_\_\_\_ No \_\_\_\_\_ Unknown \_\_\_\_\_

22 If yes, describe: \_\_\_\_\_

23 II. STRUCTURAL INFORMATION

24 If the answer is yes to any of the following, please explain under additional comments or on an

1 attached separate sheet.

2 1. ~~Have you experienced~~ Are you aware of any water penetration problems in the walls,  
3 windows, doors, basement, or crawl space?

4 Yes \_\_\_\_ No \_\_\_\_ ~~Unknown~~ \_\_\_\_

5 2. What water damage related repairs, if any, have been made?

6 ~~If so~~ any, when? \_\_\_\_\_

7 ~~Is~~ 3. Are you aware if drain tile is installed on the property?

8 Yes \_\_\_\_ No \_\_\_\_ ~~Unknown~~ \_\_\_\_

9 24. ~~Are there~~ you aware of any interior cracked walls or floors, or cracks or defects in exterior  
10 driveways, sidewalks, patios, or other hard surface areas?

11 Yes \_\_\_\_ No \_\_\_\_ ~~Unknown~~ \_\_\_\_

12 ~~If yes, explain:~~ What related repairs, if any, have been made?

13 \_\_\_\_\_

14 ~~35. Have you ever experienced~~ Are you aware of any roof leakage, past or present?

15 Yes \_\_\_\_ No \_\_\_\_ ~~Unknown~~ \_\_\_\_

16 Type of roof covering: \_\_\_\_\_

17 Age: \_\_\_\_\_

18 What roof repairs, if any, have been made, when and by whom?

19 \_\_\_\_\_

20 ~~If so~~, when? \_\_\_\_\_

21 Describe any existing unrepaired damage to the roof: \_\_\_\_\_

22 ~~4. Have you received notice that fire retardant treated plywood may have been used during roof~~  
23 ~~construction of the property?~~

24 ~~Yes~~ \_\_\_\_ ~~No~~ \_\_\_\_

1 ~~If yes, has an inspection of the roof been performed?~~

2 ~~Yes \_\_\_\_\_ No \_\_\_\_\_ Unknown \_\_\_\_\_~~

3 ~~If yes, explain results: \_\_\_\_\_~~

4 ~~56. Is there~~ Are you aware of insulation in:

5 the ceiling/attic? Yes \_\_\_\_\_ No \_\_\_\_\_ ~~Unknown \_\_\_\_\_~~

6 the walls? Yes \_\_\_\_\_ No \_\_\_\_\_ ~~Unknown \_\_\_\_\_~~

7 the floors? Yes \_\_\_\_\_ No \_\_\_\_\_ ~~Unknown \_\_\_\_\_~~

8 ~~67. Are you aware of any termite or wood boring pest~~ infestation or damage, either past or  
9 present?

10 Yes \_\_\_\_\_ No \_\_\_\_\_ ~~Unknown \_\_\_\_\_~~

11 ~~If yes, explain: \_\_\_\_\_~~

12 ~~Has~~ 8. Are you aware of the property having been treated for any ~~termite or wood boring pest~~  
13 infestation or damage?

14 Yes \_\_\_\_\_ No \_\_\_\_\_ ~~Unknown \_\_\_\_\_~~

15 If yes, who treated it and when? \_\_\_\_\_

16 ~~79. Have~~ Are you performed aware of any work upon the property ~~within the last five years~~  
17 which required a building, plumbing, electrical, or any other permit?

18 Yes \_\_\_\_\_ No \_\_\_\_\_

19 If yes, describe the work: \_\_\_\_\_

20 Was a permit obtained? Yes \_\_\_\_\_ No \_\_\_\_\_

21 Was the work approved by an inspector? Yes \_\_\_\_\_ No \_\_\_\_\_

22 ~~Explain: \_\_\_\_\_~~

23 ~~8. Has~~ 10. Are you aware of any past or present damage to the property, structures, or  
24 ~~improvements thereon ever been damaged?~~ (i.e. fire, smoke, wind, floods, hail, or snow)?

1 Yes \_\_\_\_ No \_\_\_\_ ~~Unknown \_\_\_\_~~

2 ~~If yes, describe~~ \_\_\_\_\_

3 ~~Have any insurance claims been made?~~

4 ~~Yes \_\_\_\_ No \_\_\_\_ Unknown \_\_\_\_~~

5 ~~Was an insurance payment received?~~

6 ~~Yes \_\_\_\_ No \_\_\_\_ Unknown \_\_\_\_~~

7 ~~If yes, has~~ Has the damage been repaired?

8 Yes \_\_\_\_ No \_\_\_\_

9 ~~If yes, describe in detail:~~ \_\_\_\_\_

10 \_\_\_\_\_

11 ~~911.~~ Are you aware of any problems with sewer blockage or backup, past or present?

12 Yes \_\_\_\_ No \_\_\_\_ ~~Unknown \_\_\_\_~~

13 III. SYSTEMS/UTILITIES INFORMATION

14 \_\_\_\_\_ ~~NONE/NOT~~ \_\_\_\_\_ ~~NOT~~ \_\_\_\_\_

15 \_\_\_\_\_ ~~INCLUDED WORKING WORKING UNKNOWN~~ \_\_\_\_\_

16 ~~A. ELECTRICAL SYSTEM~~

17 ~~Burglar Alarm and/or Security~~

18 ~~System~~

19 ~~Ceiling Fan~~

20 ~~Garage Wiring~~

21 ~~Garage Door/Opener Control(s)~~

22 ~~Doorbell~~

23 ~~Intercom~~

24 ~~Light Fixtures~~

- 1 Sauna
- 2 ~~Smoke and/or Fire Alarm~~
- 3 ~~Switches & Outlets~~
- 4 ~~Vent Fan~~
- 5 ~~220 Volt Service~~
- 6 ~~B. HEATING AND COOLING SYSTEM~~
- 7 ~~Air Exchanger~~
- 8 ~~Attic Fan~~
- 9 ~~Air Purifier~~
- 10 ~~Central Air -- Electric~~
- 11 ~~Central Air -- Water Cooled~~
- 12 ~~Fireplace~~
- 13 ~~Fireplace Insert~~
- 14 ~~Furnace/Heat -- Electric or Gas~~
- 15 ~~Humidifier~~
- 16 ~~Propane Tank -- Leased or Owned~~
- 17 ~~Solar House -- Heating~~
- 18 ~~Woodburning Stove~~
- 19 ~~C. WATER/SEWER SYSTEMS~~
- 20 ~~Cistern~~
- 21 ~~Hot Tub, Whirlpool, and Controls~~
- 22 ~~Plumbing and Fixtures~~
- 23 ~~Pool & Equipment~~
- 24 ~~Septic/Leaching Field~~

- 1 ~~Sump Pump~~
- 2 ~~Underground Sprinkler & Heads~~
- 3 ~~Water Heater -- Electric or Gas~~
- 4 ~~Water Purifier~~
- 5 ~~Water Softener -- Leased or Owned~~
- 6 ~~Well & Pump~~
- 7 ~~Sewer Systems/Drains~~

8	<u>NONE/NOT</u>		<u>NOT</u>
9	<u>INCLUDED</u>	<u>WORKING</u>	<u>WORKING</u>
10	<u>1. 220 Volt Service</u>	_____	_____
11	<u>2. Air Exchanger</u>	_____	_____
12	<u>3. Air Purifier</u>	_____	_____
13	<u>4. Attic Fan</u>	_____	_____
14	<u>5. Burglar Alarm and Security System</u>	_____	_____
15	<u>6. Ceiling Fan</u>	_____	_____
16	<u>7. Central Air - Electric</u>	_____	_____
17	<u>8. Central Air - Water Cooled</u>	_____	_____
18	<u>9. Cistern</u>	_____	_____
19	<u>10. Dishwasher</u>	_____	_____
20	<u>11. Disposal</u>	_____	_____
21	<u>12. Doorbell</u>	_____	_____
22	<u>13. Fireplace</u>	_____	_____
23	<u>14. Fireplace Insert</u>	_____	_____
24	<u>15. Garage Door/Opener Control(s)</u>	_____	_____
25	<u>16. Garage Wiring</u>	_____	_____
26	<u>17. Heating System</u>	_____	_____
27	<u>18. Hot Tub, Whirlpool, and Controls</u>	_____	_____

1	<u>19. Humidifier</u>	_____	_____	_____
2	<u>20. Intercom</u>	_____	_____	_____
3	<u>21. Light Fixtures</u>	_____	_____	_____
4	<u>22. Microwave/Hood</u>	_____	_____	_____
5	<u>23. Plumbing and Fixtures</u>	_____	_____	_____
6	<u>24. Pool and Equipment</u>	_____	_____	_____
7	<u>25. Propane Tank</u>	_____	_____	_____
8	<u>26. Radon System</u>	_____	_____	_____
9	<u>27. Sauna</u>	_____	_____	_____
10	<u>28. Septic/Leaching Field</u>	_____	_____	_____
11	<u>29. Sewer Systems/Drains</u>	_____	_____	_____
12	<u>30. Smoke/Fire Alarm</u>	_____	_____	_____
13	<u>31. Solar House - Heating</u>	_____	_____	_____
14	<u>32. Sump Pump(s)</u>	_____	_____	_____
15	<u>33. Switches and Outlets</u>	_____	_____	_____
16	<u>34. Underground Sprinkler and Heads</u>	_____	_____	_____
17	<u>35. Vent Fan</u>	_____	_____	_____
18	<u>36. Water Heater - Electric or Gas</u>	_____	_____	_____
19	<u>37. Water Purifier</u>	_____	_____	_____
20	<u>38. Water Softener - Leased or Owned</u>	_____	_____	_____
21	<u>39. Well and Pump</u>	_____	_____	_____
22	<u>40. Wood Burning Stove</u>	_____	_____	_____

23 IV. HAZARDOUS CONDITIONS

24 ~~Are there any existing hazardous conditions of the property such as methane gas, lead paint,~~  
25 ~~radon gas in the house or well, radioactive material, a landfill mineshaft, expansive soil, toxic~~  
26 ~~materials, ureaformaldehyde foam insulation, asbestos insulation, or buried fuel or chemical~~  
27 ~~storage tanks?~~

28 Yes \_\_\_\_\_ No \_\_\_\_\_ Unknown \_\_\_\_\_

1 Have any tests been performed? Yes \_\_\_\_\_ No \_\_\_\_\_ Unknown \_\_\_\_\_

2 Explain: \_\_\_\_\_

3 Are you aware of any existing hazardous conditions of the property and are you aware of any  
4 tests having been performed?

5 EXISTING CONDITIONS TESTS PERFORMED

	<u>YES</u>	<u>NO</u>	<u>YES</u>	<u>NO</u>
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				
16				
17				
18				
19				
20				
21				

22 If the answer is yes to any of the questions above, please explain in additional comments or on  
23 an attached separate sheet.

24 IV. MISCELLANEOUS INFORMATION

25 1. Is the street or road located at the end of the driveway to the property public or private?

26 Public \_\_\_\_\_ Private \_\_\_\_\_ Unknown \_\_\_\_\_

27 2. If private, is there a written road maintenance agreement?

1 If yes, attach a copy of the maintenance agreement.

2 Yes \_\_\_\_ No \_\_\_\_ ~~Unknown \_\_\_\_~~

3 ~~If yes, attach a copy of the maintenance agreement, if available.~~

4 ~~2. Is this property located in or near a flood plain?~~

5 ~~Yes \_\_\_\_ No \_\_\_\_ Unknown \_\_\_\_~~

6 3. When was the fireplace/wood stove/chimney flue last cleaned?

7 ~~Date: \_\_\_\_\_~~

8 4. ~~In~~ Within the previous twelve months prior to ~~the date of~~ signing this document, ~~did~~ are you  
9 aware of any of the following ~~occur~~ occurring on the subject property:?

10 \_\_\_\_\_ ~~YES NO UNKNOWN~~

11 a. ~~A human death by homicide~~ \_\_\_\_\_

12 b. ~~Other felony committed against the~~  
13 ~~property or a person on the property~~ \_\_\_\_\_

14 ~~If yes to any of the above explain:~~

15 \_\_\_\_\_

16 a. A human death by homicide or suicide? If yes, explain:

17 \_\_\_\_\_

18 Yes \_\_\_\_\_ No \_\_\_\_\_

19 b. Other felony committed against the property or a person on the property? If yes, explain:

20 \_\_\_\_\_

21 Yes \_\_\_\_\_ No \_\_\_\_\_

22 5. ~~Are the improvements connected to a~~ Is the water source public or private ~~water system~~  
23 (select one)?

24 6. If private, what is the date and result of the last water test?

1 \_\_\_\_\_

2 7. ~~Are the improvements connected to a public or private~~ Is the sewer system public or  
3 private (select one)?

4 \_\_\_\_\_

5 8. If private, what is the date of the last time the septic tank was pumped? \_\_\_\_\_

6 89. Are there broken window panes or seals?

7 Yes \_\_\_\_ No \_\_\_\_ ~~Unknown~~ \_\_\_\_

8 If ~~so~~ yes, specify: \_\_\_\_\_

9 910. Are there any items attached to the property that will not be left, such as: towel bars,  
10 mirrors, swag lamps and hooks, curtain rods, window coverings, light fixtures, clothes lines,  
11 swing sets, storage sheds, ceiling fans, basketball hoops, mail boxes, etc.

12 Yes \_\_\_\_ No \_\_\_\_

13 If yes, please list \_\_\_\_\_

14 1011. ~~Are there~~ are you aware of any other material facts or problems that have not been disclosed  
15 ~~above~~ on this form?

16 Yes \_\_\_\_ No \_\_\_\_

17 If yes, explain: \_\_\_\_\_

18 VI. ADDITIONAL COMMENTS (ATTACH ADDITIONAL PAGES IF NECESSARY)

19 \_\_\_\_\_

20 \_\_\_\_\_

21 CLOSING SECTION

22 The Seller hereby certifies that the information contained herein is true and correct to the best  
23 of the Seller's information, knowledge, and belief as of the date of the Seller's signature below.

24 If any of these conditions change before conveyance of title to this property, the change will be

1 disclosed in a written amendment to this disclosure statement.

2 SELLER \_\_\_\_\_ DATE \_\_\_\_\_

3 SELLER \_\_\_\_\_ DATE \_\_\_\_\_

4 THE SELLER AND THE BUYER MAY WISH TO OBTAIN PROFESSIONAL ADVICE  
5 AND INSPECTIONS OF THE PROPERTY TO OBTAIN A TRUE REPORT AS TO THE  
6 CONDITION OF THE PROPERTY AND TO PROVIDE FOR APPROPRIATE PROVISIONS  
7 IN ANY CONTRACT OF SALE AS NEGOTIATED BETWEEN THE SELLER AND THE  
8 BUYER WITH RESPECT TO SUCH PROFESSIONAL ADVICE AND INSPECTIONS.

9 I/We acknowledge receipt of a copy of this statement on the date appearing beside my/our  
10 signature(s) below. Any agent representing any party to this transaction makes no  
11 representations and is not responsible for any conditions existing in the property.

12 BUYER \_\_\_\_\_ DATE \_\_\_\_\_

13 BUYER \_\_\_\_\_ DATE \_\_\_\_\_

14 Section 2. That § 43-4-45 be repealed.

15 ~~43-4-45. In any selling of a residential premises, any seller who has actual knowledge of the~~  
16 ~~existence of any prior manufacturing of methamphetamines on the premises shall disclose that~~  
17 ~~information to any purchaser or any person who may become a purchaser.~~

18 Section 3. That § 36-21A-89.1 be repealed.

19 ~~36-21A-89.1. The commission shall develop a disclosure form, to be filled out by the seller,~~  
20 ~~regarding a purchaser's knowledge of the existence of any prior manufacturing of~~  
21 ~~methamphetamines.~~

# State of South Dakota

EIGHTIETH SESSION  
LEGISLATIVE ASSEMBLY, 2005

475L0485

## SENATE AGRICULTURE AND NATURAL RESOURCES COMMITTEE ENGROSSED NO. **SB 117** - 02/01/2005

Introduced by: Senators McNenny, Hansen (Tom), Hundstad, Kloucek, and Lintz and  
Representatives Jensen, Brunner, Davis, Dykstra, Fryslie, Olson (Ryan),  
Pederson (Gordon), and Tidemann

1 FOR AN ACT ENTITLED, An Act to provide for the development and implementation of  
2 certain animal identification programs to maintain animal health and ensure the safety of the  
3 food supply.

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

5 Section 1. That chapter 40-3 be amended by adding thereto a NEW SECTION to read as  
6 follows:

7 The Animal Industry Board may develop and implement specific programs for the  
8 identification of animals and premises involved in animal movements. Any program  
9 implemented pursuant to this Act shall provide for confidentiality of identification records other  
10 than those records requested by law enforcement officers of the state and those records used for  
11 mandatory disease control or eradication efforts.

12 Any identification program implemented pursuant to this Act shall be for the sole purpose  
13 of maintaining animal health and ensuring the safety of the food supply.

14 Section 2. That chapter 40-3 be amended by adding thereto a NEW SECTION to read as



1 follows:

2 The Animal Industry Board may not develop and implement any identification program that  
3 conflicts with or supercedes any provision of the state brand laws.

4 Section 3. That chapter 40-3 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 The Animal Industry Board shall promulgate rules pursuant to chapter 1-26 for the  
7 implementation of identification programs concerning:

- 8 (1) Descriptions of the systems used to implement identification programs;
- 9 (2) Methods and procedures to foster cooperation with industry, other states, and the  
10 federal government in implementing identification programs;
- 11 (3) Definitions to be used in identification programs;
- 12 (4) Types of identification approved in identification programs;
- 13 (5) Methods for tracking movements of animals included in identification programs;
- 14 (6) Penalties for intentional removal of official identification devices from animals  
15 within the state or from animals imported into the state;
- 16 (7) Confidentiality of identification records other than those used for mandatory disease  
17 control and eradication programs;
- 18 (8) Types and species of animals included in identification programs; and
- 19 (9) Criteria for defining programs as voluntary or mandatory.

# 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

634L0716

SENATE COMMERCE COMMITTEE ENGROSSED NO.

**SB 163** - 02/08/2005

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

Introduced by: Senators Dempster, Broderick, Earley, McCracken, and Schoenbeck and Representatives Vehle, Murschel, O'Brien, and Peters

1 FOR AN ACT ENTITLED, An Act to authorize certain multiple employer trusts.

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

3 Section 1. That chapter 58-18B be amended by adding thereto a NEW SECTION to read as  
4 follows:

5 The rating requirements of this chapter do not apply to an association if all of the following  
6 criteria are met:

7 (1) The trade, industry, or professional association is comprised in part of homogenous  
8 small employers, meets the requirements for the issuance of group health insurance  
9 pursuant to § 58-18-3 and if applicable, § 58-18-4, has a constitution or bylaws, has  
10 been organized under the laws of South Dakota and maintained in good faith for  
11 purposes other than providing insurance for at least ten continuous years, and will  
12 provide coverage to not fewer than five hundred employees by January 1, 2007;

13 (2) The group health plan provides coverage to association members' employees and  
14 dependents on a community rated basis;



1 (3) The director, after consideration of the impact on the insurance-buying public, has  
2 determined that the arrangement is in the best interest of the public.

3 Section 2. That chapter 58-18 be amended by adding thereto a NEW SECTION to read as  
4 follows:

5 A self-funded multiple employer trust, as defined in section 3 of the federal Employee  
6 Retirement Income Security Act of 1974, 29 U.S.C. §1002, paragraph 40, may be authorized  
7 by the director if the multiple employer trust meets all of the following conditions:

8 (1) The multiple employer trust is administered by an authorized insurer or a licensed  
9 third-party administrator;

10 (2) The multiple employer trust meets all of the requirements of section 1 of this Act;

11 (3) The multiple employer trust is established by a homogenous trade, industry, or  
12 professional association of employers that has a constitution or bylaws, is organized  
13 under the laws of South Dakota and has been maintained in good faith for purposes  
14 other than providing insurance for at least ten continuous years;

15 (4) The association sponsoring the multiple employer trust is engaged in substantial  
16 activity for its members other than sponsorship of an employer welfare benefit plan;

17 (5) The association sponsoring the multiple employer trust is a nonprofit entity organized  
18 under applicable South Dakota law;

19 (6) The multiple employer trust, upon authorization by the director, participates in the  
20 South Dakota Life and Health Insurance Guaranty Association pursuant to chapter  
21 58-29C and is a member pursuant to subdivision 58-29C-48(12);

22 (7) The multiple employer trust:

23 (a) Meets the capital and surplus requirements of § 58-6-23;

24 (b) Meets the risk based capital requirements of § 58-4-48;

- 1 (c) Is subject to the hazardous financial condition requirements of §§ 58-4-39 to
- 2 58-4-42, inclusive;
- 3 (d) Invests its assets pursuant to the requirements of chapters 58-26 and 58-27;
- 4 (e) Is subject to chapter 58-3 on the same basis as insurers;
- 5 (f) Is subject to the insurers supervision, rehabilitation, and liquidation provisions
- 6 of chapter 58-29B.

7 Section 3. That chapter 58-18 be amended by adding thereto a NEW SECTION to read as  
8 follows:

9 The director shall promulgate rules, pursuant to chapter 1-26, pertaining to multiple  
10 employer trusts in the following areas:

- 11 (1) Consumer protection issues including minimum coverage standards for health
- 12 policies; claims processing and payment practices; resolution of consumer
- 13 complaints; compliance with federal HIPAA standards; plan termination processes
- 14 and managed care protections; financial and market conduct record keeping and
- 15 reporting; and unfair trade practices; and
- 16 (2) Financial and plan solvency issues including investment capital requirements; surplus
- 17 and deposit requirements; claims reserves, stop loss coverage, and standards for entry
- 18 and exit of plan members including a nonrefundable minimum deposit of not less
- 19 than two thousand five hundred dollars plus two percent of first year contributions
- 20 on an annual basis; and production of financial statements, audited financial
- 21 statements, and actuarial opinions.

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

24 Except as otherwise provided in this Act, a multiple employer trust organized pursuant to

1 this Act may not be deemed to be or considered to be an insurance company or association of  
2 any kind or character under Title 58, or subject to the provisions of §§ 58-8-6 to 58-8-19,  
3 inclusive.

4 Section 5. That chapter 58-18 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 A multiple employer trust authorized by this Act may have its authorization suspended or  
7 revoked by the director for violating any provision of this Act or because its capital is impaired,  
8 and in either instance the director may take action in lieu of suspension or revocation as though  
9 the trust were an insurer as provided by § 58-4-28.1.

10 Section 6. That chapter 58-18 be amended by adding thereto a NEW SECTION to read as  
11 follows:

12 If not otherwise provided, a multiple employer trust doing business in this state on a self-  
13 funded basis shall pay premium taxes as required in chapter 10-44 based upon the amount each  
14 participating employer contributes, including any amounts contributed by employees and  
15 dependents, to the plan on an annual basis. If a multiple employer trust purchases excess or stop  
16 loss coverage, the multiple employer trust may not be taxed additionally for that coverage.

17 Section 7. That chapter 58-18 be amended by adding thereto a NEW SECTION to read as  
18 follows:

19 No agent may sell, solicit, or negotiate a self-funded multiple employer trust authorized by  
20 this Act unless the agent is licensed to sell life and health insurance pursuant to chapter 58-30.

21 Section 8. That chapter 58-18 be amended by adding thereto a NEW SECTION to read as  
22 follows:

23 The provisions of this Act do not apply to any single employer self-funded plan as  
24 preempted by Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1144 or any

1 arrangement exempted pursuant to § 1-24-17. A self-funded multiple employer trust authorized  
2 by this Act may include as participating employers both small employers and large employers.

# 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

565L0732

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

**SB 178** - 02/16/2005

Introduced by: Senators Schoenbeck and Gray and Representatives Murschel, Cutler, Faehn,  
and Koistinen

1 FOR AN ACT ENTITLED, An Act to provide for the creation of county interdisciplinary child  
2 information teams and to regulate their memberships, authority, and responsibilities.

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

4 Section 1. The following persons and agencies operating within a county may, by written  
5 agreement, form a county interdisciplinary child information team:

6 (1) The state's attorney;

7 (2) The county sheriff;

8 (3) The chief of police of any municipality;

9 (4) The superintendent or the chief executive officer of any school district;

10 (5) The Department of Social Services;

11 (6) The Department of Corrections; and

12 (7) The administrator of the county teen court.

13 Section 2. The persons and agencies signing a written agreement to form a county  
14 interdisciplinary child information team may, from time to time, by majority vote, allow the  
15 following persons to sign the written agreement and join the team:



- 1 (1) Any physician, psychologist, psychiatrist, nurse, or other provider of medical and  
2 mental health care;
- 3 (2) Any administrator of any private elementary and secondary school;
- 4 (3) Any attorney practicing law in the county; and
- 5 (4) Any responsible person that has a legitimate interest in one or more of the children  
6 that the team is serving.

7 Section 3. The county interdisciplinary child information team may form one or more  
8 auxiliary teams for the purpose of providing service to a single child, a group of children, or  
9 specific children with a particular type of problem, or for any other purpose. Each auxiliary team  
10 is subject to the written agreement. Each member of an auxiliary team must be a person who has  
11 personal knowledge of or experience with some child serviced by the auxiliary team.

12 Section 4. The county interdisciplinary child information team and the written agreement  
13 shall facilitate the exchange and sharing of information that one or more team members may be  
14 able to use in serving a child in the course of their professions, specialties, interests, or  
15 occupations for the purpose of holding each child accountable, ensuring the safety of the child  
16 and the community, and providing early intervention to avert more serious problems.  
17 Information regarding any child that a team member supplies to other team members is  
18 confidential and may not be disseminated beyond the team.

19 Section 5. The terms of the written agreement shall provide for the rules under which the  
20 team will operate, the method by which information will be shared, distributed, and managed,  
21 the means by which the confidentiality of the information will be safeguarded, and any other  
22 matters necessary to the purpose and functions of the team. The terms of the written agreement  
23 shall also provide how the team will coordinate its efforts with child protection teams as  
24 provided in § 26-8A-17 and local interagency teams, if any, as provided in § 27A-15-54. The

1 written agreement shall be filed with the county auditor.

2 Section 6. To the extent that the county interdisciplinary child information team is involved  
3 in a proceeding that is held prior to adjudication by a court, the team satisfies the requirements  
4 of 20 U.S.C. 1232g(b)(1)(E)(ii)(I) of the Family Educational Rights and Privacy Act of 1974.  
5 South Dakota school districts may release education records to the team. The terms of the  
6 written agreement, as provided for in section 5 of this Act, shall include a requirement that the  
7 officials and authorities to whom the information is disclosed certify in writing to the school  
8 district that is releasing the education records that the education records or information from the  
9 education records will not be disclosed to any other party without the prior written consent of  
10 the parent or guardian of the student.

11 Section 7. Any person serving as a member of a county interdisciplinary child information  
12 team as provided in section 1 of this Act whose action in facilitating the exchange and sharing  
13 of information in serving any child in the course of their professions, specialities, interests, or  
14 occupations for the purpose of holding each child accountable, ensuring the safety of the child  
15 and the community, and providing early intervention to avert more serious problems, is immune  
16 from any civil liability, arising out of any good faith act relevant to participation on any county  
17 interdisciplinary child information team, that might otherwise be incurred or imposed.

18 Section 8. Any agreement pursuant to this Act shall include a requirement for notice to the  
19 parent or guardian unless the parent or guardian is the subject of an investigation by one of the  
20 participating agencies with respect to the child's conduct or welfare.

# 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.