

State of South Dakota

EIGHTIETH
LEGISLATIVE ASSEMBLY, 2005

400L0371

HOUSE HEALTH AND HUMAN SERVICES
COMMITTEE ENGROSSED NO. **SB 55** - 02/04/2005

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

1 FOR AN ACT ENTITLED, An Act to provide for a preference for placement of abused and
2 neglected children with relatives and to provide a hearing for review of adoptive placement
3 decisions.

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

5 Section 1. That § 26-7A-19 be amended to read as follows:

6 26-7A-19. If the child is an apparent, alleged, or adjudicated abused or neglected child, after
7 the temporary custody hearing the court may:

8 (1) Order the release of the child from temporary custody, either with or without
9 restriction or condition or upon written promise of the child's parents, guardian, or
10 custodian regarding the care and protection of the child; or

11 (2) Continue the temporary custody of the child under the terms and conditions for
12 duration and placement that the court requires, including placement of temporary
13 custody of the child with the Department of Social Services, in foster care or shelter.

14 The court and the Department of Social Services shall give placement preference to
15 a relative or custodian who is available and who has been determined by the



1 department to be qualified, provided that placement with the relative or custodian is
2 in the best interest of the child. If temporary custody of the child is continued by the
3 court, the court may provide for visitation of the child by the child's parents,
4 guardian, custodian, or family members in keeping with the best interests of the
5 child;~~and~~

6 ~~—(3)—~~ If the child is in temporary custody of the Department of Social Services and has not
7 been adjudicated as an abused or neglected child, the court shall review the child's
8 temporary custody placement at least once every sixty days.

9 As used in this section, the term, relative, means an adult who is related to the child by
10 blood, adoption, or marriage, and who is the child's grandparent, aunt, uncle, sibling, brother-in-
11 law, sister-in-law, niece, nephew, great grandparent, great uncle, great aunt, first cousin, second
12 cousin, stepparent, or stepsibling.

13 As used in this section, the term, custodian, means an adult who is the biological parent,
14 adoptive parent, or guardian of the child's sibling or half-sibling.

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

17 Subsequent to a temporary custody hearing, if a placement is made of an apparent, alleged,
18 or adjudicated abused or neglected child, placement preference shall be given to a relative
19 entitled to placement under § 26-7A-19.

20 Section 3. That chapter 26-8A be amended by adding thereto a NEW SECTION to read as
21 follows:

22 Except under circumstances where placement was with another relative of the child, any
23 relative who has been denied adoptive placement by the Department of Social Services may
24 request a hearing to determine if the placement was an abuse of discretion. The request shall be

1 filed with the circuit court having jurisdiction pursuant to § 26-8A-29 and shall be filed within
2 thirty days of written notification from the department by regular mail to the relative's last
3 known address. The hearing shall be held within thirty days of the filing of the request for
4 hearing and may be continued for not more than thirty days upon good cause shown. The
5 relative shall be granted limited intervention only for the purpose of the placement review
6 hearing.

7 No intervention may be allowed in a proceeding involving an apparent, alleged, or
8 adjudicated abused or neglected child, including an adoption or guardianship proceeding for a
9 child placed in the custody of the Department of Social Services pursuant to § 26-8A-27, except
10 as provided by this chapter and under the Indian Child Welfare Act, (25 U.S.C. 1901 to 1963,
11 inclusive), as amended to January 1, 2005.

State of South Dakota

EIGHTIETH SESSION
LEGISLATIVE ASSEMBLY, 2005

354L0447

SENATE AGRICULTURE AND NATURAL RESOURCES COMMITTEE ENGROSSED NO. **SB 114** - 02/08/2005

Introduced by: Senators Duenwald, Hansen (Tom), Hanson (Gary), and Koskan and
Representatives Davis, Fryslie, Hackl, Hargens, and Jensen

1 FOR AN ACT ENTITLED, An Act to establish a refundable checkoff on pulse crops.

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

3 Section 1. Terms used in this Act mean:

4 (1) "Council," the South Dakota Pulse Crop Council;

5 (2) "First purchaser," any person, firm, corporation, association, partnership, agent, or
6 broker buying, accepting for sale, or otherwise acquiring pulse crops after harvest
7 from a grower. A grower selling unharvested pulse crops or delivering pulse crops
8 from the farm on which they are produced to storage facilities, packing shed, or
9 processing plant is not a first purchaser;

10 (3) "Grower," any person who is the legal initial owner of pulse crops harvested from
11 more than ten acres;

12 (4) "Participating grower," a grower who has not requested a refund from the payment
13 of assessments on pulse crops under this Act for the current or previous year;

14 (5) "Pulse crops," lentils, dry peas, chickpeas, and lupines;

15 (6) "Secretary," the secretary of the Department of Agriculture.



1 Section 2. The South Dakota Pulse Crops Council is composed of five members who are
2 participating growers of dry peas, lentils, chickpeas, or lupines. The secretary shall make the
3 initial appointments to the council and the secretary or a designee may serve as a nonvoting ex
4 officio member. Initial appointments to the council shall include five participating growers,
5 including a dry pea grower, a chickpea grower, a lentil or lupine grower, and two at-large pulse
6 producers. If no grower representing one of these crops is available or willing to serve, then
7 another at-large grower shall be appointed.

8 Section 3. The term of the members of the council is three years. However, the initial
9 appointments shall be for staggered terms. Succeeding council members shall be nominated and
10 elected by participating growers pursuant to rules promulgated by the secretary pursuant to
11 chapter 1-26. No council member may serve more than two consecutive elected terms. If a
12 member ceases to be a participating grower, the secretary shall declare the member's office
13 vacant, and the secretary shall appoint a successor for the balance of the term of the office
14 vacated.

15 Section 4. The council shall annually elect a chair and vice-chair. A majority of voting
16 members constitutes a quorum. All meetings of the council shall be called by the chair.
17 However, special meetings may be called by three members of the council. The council shall
18 adopt procedures for the calling of special meetings.

19 Section 5. Compensation for the members of the council shall be paid pursuant to § 4-7-
20 10.4.

21 Section 6. Funds collected pursuant to this Act shall be deposited with the state treasurer in
22 a special fund known as the pulse crops fund. Expenditures of these funds shall be made in
23 accordance with the provisions of chapter 4-7.

24 Section 7. The council shall promote the development, marketing, processing, and

1 production of pulse crops in South Dakota. In the administration of this Act, the council may:

- 2 (1) Contract and cooperate with any person or with any governmental department or
3 agency for research, education, promotion, and transportation;
- 4 (2) Expend the funds collected pursuant to this Act and appropriated for its
5 administration;
- 6 (3) Appoint, discharge, fix compensation for, and prescribe the duties of personnel as
7 necessary, subject to approval of the secretary;
- 8 (4) Accept donations of funds, property, services, or other assistance from public or
9 private sources for the purpose of furthering the objectives of the council.

10 Section 8. The council shall promulgate rules pursuant to chapter 1-26 concerning:

- 11 (1) The procedures for obtaining a declaratory ruling;
- 12 (2) The procedures by which assessments are collected for pulse crops grown or sold to
13 a first purchaser;
- 14 (3) The procedures for obtaining a refund of the assessment;
- 15 (4) The procedures for collecting delinquent assessments and assessing penalties; and
- 16 (5) The record-keeping and reporting requirements of first purchasers.

17 Section 9. Nothing in this Act abrogates or limits the rights, powers, duties, and functions
18 of the Department of Agriculture or any other agency of the state.

19 Section 10. An assessment at the rate of one percent of the net market price is levied and
20 imposed on any pulse crop grown or sold in South Dakota to a first purchaser. The council may
21 enter into reciprocal agreements with other states that also have a pulse checkoff to remit the
22 assessment to the state where the crop is grown. This assessment is due on any identifiable lot
23 or quantity of a pulse crop.

24 Section 11. Each first purchaser of pulse crops shall collect the assessment imposed by this

1 Act by charging and collecting from the seller the assessment at the prescribed rate by deducting
2 the assessment from the purchase price of the crops subject to the assessment and purchased by
3 the first purchaser. The assessments shall be paid to the department within thirty days of the end
4 of each calendar quarter.

5 Section 12. Each first purchaser of pulse crops shall file an application or affidavit with the
6 council on forms prescribed and furnished by the council which contain the name under which
7 the first purchaser is transacting business within the state, the place of business, and the location
8 of loading places of the first purchaser.

9 Section 13. Each first purchaser shall keep a permanent record of all purchases of pulse
10 crops, which may be examined by the council at any reasonable time. The first purchaser shall
11 report to the council the quantity of pulse crops received by the first purchaser. The report and
12 remittance of the assessment shall be made at the times and in the manner prescribed by the
13 council in rules promulgated pursuant to chapter 1-26.

14 Section 14. In the case of a pledge or mortgage of pulse crops as security for a loan under
15 the federal price support program, the assessment established under section 10 of this Act shall
16 be deducted from the proceeds of the loan at the time the loan is made, or be deducted thereafter
17 by agencies of the federal government. The producer's note and loan agreement, producer's note
18 and supplemental loan agreement, or delivery instructions issued by the federal agency to the
19 grower fulfill the requirements for invoices, and these documents constitute proof of payment
20 of the assessment on the pulse crops. Forms supplemental or alternate to those approved in this
21 section that are provided by the Commodity Credit Corporation of the United States Department
22 of Agriculture and contain the necessary information may be used for the purposes of this
23 section. Identification numbers created by the Commodity Credit Corporation for use in lieu of
24 the name of the grower from whom the assessment was collected are approved, if authorized

1 officials of the State of South Dakota have access at all reasonable times to records in the United
2 States Department of Agriculture Farm Service Agency county offices showing the names of
3 growers to whom such identification numbers have been assigned.

4 Section 15. If pulse crops described in section 14 of this Act remain in farm storage for the
5 duration of the pledge or mortgage, the assessment paid at the time the loan was made
6 completely satisfies the assessment liability unless upon subsequent actual delivery of the pulse
7 crop from farm storage in satisfaction of the pledge, or mortgage in the amount of one dollar or
8 more, any underpayment is due solely to the necessity of estimating the quantity of the pulse
9 crops placed in farm storage.

10 Section 16. In connection with the collection of the pulse crop assessment on Commodity
11 Credit Corporation pulse loans disbursed and purchase agreement settlement made,
12 undercollections or overcollections of the pulse crop assessment amounting to one dollar or less
13 as a result of errors do not require collection of the underpayment or refund of the overpayment
14 by the Commodity Credit Corporation, and its responsibility in such cases is waived.

15 Section 17. If any first purchaser fails to pay the assessment provided in this Act, the council
16 may enforce collection in any appropriate court within this state.

17 Section 18. Any grower subject to the assessment provided in this Act, within sixty days
18 following the assessment, may apply to the council for a refund of the assessment. Upon return
19 of the refund application accompanied by a record of the assessment by the first purchaser, the
20 grower shall, within sixty days, be refunded the net amount of the assessment collected.
21 Additionally, a grower, who for any reason, pays the assessment more than once on the same
22 pulse crops, upon furnishing proof of this to the council, is entitled to a refund of the
23 overpayment.

24 Section 19. The council shall develop and disseminate information and instructions relating

1 to the purpose of the pulse crop assessment and manner in which refunds may be claimed.

2 Section 20. If fifteen percent of the participating growers, as disclosed by the records of the
3 council for the preceding year, petition the council, the council shall conduct a referendum
4 among the participating growers of the state to determine whether they wish the Legislature to
5 raise or reduce the assessment imposed by this Act. The referendum may be conducted only
6 among participating growers who have paid all assessments pursuant to this Act for the
7 preceding year, and the ballots shall be prepared by the council and mailed to each participating
8 grower at least thirty days before the last date for filing ballots. In addition, each ballot shall be
9 accompanied by a notice to each participating grower:

- 10 (1) Of the date of the filing of the petition by the growers for the referendum and the
11 number of signatures contained on the petition;
- 12 (2) Of the date and place where the council will open and tabulate the ballots. The date
13 may be not less than five days after the last date for filing the ballots;
- 14 (3) Of the last date upon which ballots may be filed with the council, or postmarked if
15 delivered to the council by mail; and
- 16 (4) That any participating grower may attend the meeting of the council at the time the
17 ballots are opened and the votes tabulated.

18 If a majority of the participating growers voting upon the question are in favor of the
19 proposed change, the council shall certify the result to the secretary with the request that the
20 secretary prepare a bill to submit to the next legislative session to modify this Act accordingly.
21 The results of the referendum are advisory only, and the Legislature is not obligated to adopt
22 legislation enacting the proposals contained in the referendum.

23 Section 21. The council may contract with the Public Utilities Commission to inspect the
24 records of licensed grain dealers to determine compliance with the assessment and checkoff

1 requirements of this Act. The contract shall cover the dealers to be inspected and the amount
2 the council shall reimburse the Public Utilities Commission for the inspections.

3 Section 22. That § 49-45-21 be amended to read as follows:

4 49-45-21. The commission may contract with the Wheat Commission pursuant to § 38-10-
5 41, with the South Dakota Oilseeds Council pursuant to § 38-27-19, the Soybean Research and
6 Promotion Council pursuant to § 38-29-14, ~~and~~ the South Dakota Corn Utilization Council
7 pursuant to § 38-32-24, and the South Dakota Pulse Crop Council pursuant to section 21 of this
8 Act. Under the terms of any such contract, the commission may inspect the records of licensed
9 grain dealers to determine compliance with assessment and checkoff requirements imposed by
10 chapters 38-10, 38-27, 38-29, and 38-32.

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

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.