



# State of South Dakota

EIGHTY-SECOND SESSION  
LEGISLATIVE ASSEMBLY, 2007

400N0339

SENATE APPROPRIATIONS COMMITTEE

ENGROSSED NO. **HB 1061** - 02/23/2007

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

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

1 FOR AN ACT ENTITLED, An Act to offer a human papillomavirus (HPV) vaccination  
2 initiative, to transfer funds, and to declare an emergency.

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

4 Section 1. The Department of Health may offer human papillomavirus (HPV) vaccine to any  
5 woman who is at least eleven years of age and less than nineteen years of age to help protect  
6 against the virus that causes cervical cancer at an estimated cost of nine million two hundred  
7 thousand dollars. The Department of Health may expend up to four hundred thousand dollars  
8 of general funds and the Department of Social Services may expend up to one million three  
9 hundred thousand dollars of general funds from their fiscal year 2007 budgets.

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



# State of South Dakota

EIGHTY-SECOND SESSION  
LEGISLATIVE ASSEMBLY, 2007

277N0578

## SENATE ENGROSSED NO. **HB 1139** - 02/26/2007

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

Introduced by: Representatives Rhoden, Boomgarden, Brunner, Buckingham, Carson, Cutler, Davis, Deadrick, DeVries, Dreyer, Dykstra, Faehn, Gilson, Hackl, Hanks, Haverly, Heineman, Hills, Howie, Hunt, Jerke, Juhnke, Kirkeby, Koistinen, Krebs, Lust, McLaughlin, Nelson, Noem, Novstrup (Al), Novstrup (David), Olson (Betty), Olson (Russell), Olson (Ryan), Pederson (Gordon), Peters, Pitts, Putnam, Rausch, Rave, Rounds, Steele, Tidemann, Turbiville, Van Etten, Vanneman, Vehle, Weems, Wick, and Willadsen and Senators Knudson, Abdallah, Albers, Dempster, Duenwald, Gant, Garnos, Gray, Hansen (Tom), Hauge, Hunhoff, Lintz, McCracken, McNenny, Olson (Ed), and Smidt (Orville)

1 FOR AN ACT ENTITLED, An Act to create and provide for the education enhancement  
2 tobacco tax fund and the health care tobacco tax fund.

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

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

6 There is hereby created in the state treasury the education enhancement tobacco tax fund.

7 All moneys in the education enhancement tobacco tax fund are subject to appropriation by the  
8 Legislature through the General Appropriations Act or special appropriations acts for education  
9 enhancement programs. Any interest earned shall be credited to the fund.

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



1       There is hereby created in the state treasury the health care tobacco tax fund. All moneys in  
2 the health care tobacco tax fund are subject to appropriation by the Legislature through the  
3 General Appropriations Act or special appropriations acts for health care related programs. Any  
4 interest earned shall be credited to the fund.

5       Section 3. That § 10-50-52 be amended to read as follows:

6       10-50-52. The first thirty million dollars in revenue collected annually pursuant to this  
7 chapter shall be deposited in the general fund. All revenue in excess of thirty million dollars  
8 collected annually shall be deposited in the tobacco prevention and reduction trust fund. Five  
9 million dollars of the revenue deposited annually in the tobacco prevention and reduction trust  
10 fund pursuant to this section shall be used to implement the tobacco prevention and reduction  
11 program. Thirty-three percent of any revenue deposited in the tobacco prevention and reduction  
12 trust fund in excess of five million dollars shall be transferred to the property tax reduction fund.  
13 Thirty-three percent of any revenue deposited in the tobacco prevention and reduction trust fund  
14 in excess of five million dollars shall be transferred to the education enhancement ~~trust~~ tobacco  
15 tax fund. Thirty-four percent of any revenue deposited in the tobacco prevention and reduction  
16 trust fund in excess of five million dollars shall be transferred to the health care ~~trust~~ tobacco  
17 tax fund.

# State of South Dakota

EIGHTY-SECOND SESSION  
LEGISLATIVE ASSEMBLY, 2007

339N0695

## SENATE ENGROSSED NO. **HB 1251** - 02/27/2007

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

Introduced by: Representatives Juhnke, Deadrick, and Faehn and Senators Garnos and Bartling

1 FOR AN ACT ENTITLED, An Act to continuously appropriate certain federal funds to the  
2 Commissioner of School and Public Lands and to require such funds to be set forth as  
3 informational items in the commissioner's budget.

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

5 Section 1. Any federal funds received pursuant to section 2(i) of S. 2205 ES, 109<sup>th</sup> Cong.,  
6 2d Session, an Act to direct the Secretary of Interior to convey certain parcels of land acquired  
7 for the Blunt Reservoir and Pierre Canal features of the initial stage of the Oahe Unit, James  
8 Division, South Dakota, to the Commission of School and Public Lands and the Department of  
9 Game, Fish and Parks of the State of South Dakota for the purpose of mitigating lost wildlife  
10 habitat, on the condition that the current preferential leaseholders shall have an option to  
11 purchase the parcels from the commission, and for other purposes, are hereby continuously  
12 appropriated to the Commissioner of School and Public Lands for the purposes set out in S.  
13 2205 ES, 109<sup>th</sup> Cong., 2d Session. All money received by the commissioner under the  
14 provisions of S. 2205 ES, 109<sup>th</sup> Cong., 2d Session shall be set forth in the commissioner's annual  
15 budget as an informational item, and shall be annually reviewed by the legislature as required



1 by § 2-7-7.2.

# State of South Dakota

EIGHTY-SECOND SESSION  
LEGISLATIVE ASSEMBLY, 2007

893N0703

SENATE EDUCATION COMMITTEE ENGROSSED NO.

**HB 1266** - 02/22/2007

Introduced by: Representatives Brunner, Buckingham, DeVries, Hackl, Heineman, Howie, Hunt, Novstrup (Al), and Novstrup (David) and Senators Napoli and Lintz

1 FOR AN ACT ENTITLED, An Act to allow a home school student to partially enroll in the  
2 student's resident school district or in another school district under certain circumstances and  
3 to clarify certain testing requirements for students who are partially enrolled.

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

5 Section 1. That chapter 13-28 be amended by adding thereto a NEW SECTION to read as  
6 follows:

7 The resident school district of a child excused from school attendance pursuant to § 13-27-2  
8 shall admit that child to a public school in the district upon request from the child's parent or  
9 legal guardian. A child enrolled in a school district pursuant to this section may be enrolled in  
10 a school of the school district on only a partial basis and shall continue to also receive  
11 alternative instruction pursuant to § 13-27-3.

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

14 For purposes of state aid to education, a student enrolled pursuant to this Act shall be  
15 counted in a school's average daily membership as defined in subdivision 13-13-10.1(1) in a



1 proportion equal to the share of the student's enrollment in the school.

2 Section 3. That § 13-28-41 be amended to read as follows:

3 13-28-41. A school district shall grant a request for a transfer into the district or within the  
4 district unless the transfer would result in an inability to provide a quality educational program  
5 based on criteria established by the district pursuant to § 13-28-44.

6 In addition, a school district shall grant a request to admit into the district a child who is a  
7 resident of another school district and who is excused from attending school in the resident  
8 district pursuant to § 13-27-2, unless admitting the nonresident child would result in an inability  
9 to provide a quality educational program based on criteria established by the district pursuant  
10 to § 13-28-44.

11 Section 4. If a student is partially enrolled in a school district pursuant to this Act, and the  
12 student's enrollment is equal to or greater than fifty percent, that student is required to take any  
13 academic achievement test administered by the school district pursuant to § 13-3-55. If a  
14 student's partial enrollment in a school district is less than fifty percent, the student is not  
15 required to take any academic achievement test administered by the school district pursuant to  
16 § 13-3-55.

# State of South Dakota

EIGHTY-SECOND SESSION  
LEGISLATIVE ASSEMBLY, 2007

177N0678

## SENATE ENGROSSED NO. **HB 1302** - 02/27/2007

Introduced by: Representatives Vehle, Boomgarden, Kirkeby, Moore, Peters, and Van Etten  
and Senators Hanson (Gary) and Jerstad

1 FOR AN ACT ENTITLED, An Act to revise the requirements for certain on-sale alcoholic  
2 beverage licenses.

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

4 Section 1. That § 35-2-5.3 be amended to read as follows:

5 35-2-5.3. No licensing authority ~~shall~~ may reissue any on-sale ~~or off-sale~~ license issued  
6 pursuant to subdivision 35-4-2(4), (6), or (13) to the same applicant for a one-year period if said  
7 licensee or the licensee's transferee if the license has not been actively used by the applicant  
8 during the two years preceding the date of the current application. For purposes of this section,  
9 the term, actively used, means that the licensed premise was open to the public during regular  
10 business hours for the sale and consumption of distilled spirits for at least sixty days during the  
11 two preceding years. However, the licensed premise is only required to be open five days per  
12 year if it is open to the public during a special event that has at least twenty-five thousand  
13 visitors.

14 Section 2. This Act is effective on January 1, 2009.



# State of South Dakota

EIGHTY-SECOND SESSION  
LEGISLATIVE ASSEMBLY, 2007

347N0186

HOUSE COMMERCE COMMITTEE ENGROSSED NO.

**SB 10** - 02/26/2007

Introduced by: The Committee on Commerce at the request of the Statewide One-Call  
Notification Board

1 FOR AN ACT ENTITLED, An Act to revise certain requirements and procedures regarding the  
2 one-call notification system for excavation activities.

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

4 Section 1. That subdivision (3) of § 49-7A-1 be amended to read as follows:

5 (3) "Excavation," any operation in which earth, rock, or other material in or ~~on~~ below the  
6 ground is moved or otherwise displaced by means of tools, equipment, or explosives,  
7 and includes grading, trenching, digging, ditching, drilling, augering, tunneling,  
8 scraping, and cable or pipe plowing or driving, except ~~tilling~~;

9 (a) Tilling of soil and gardening to a depth of twelve inches and the tilling of soil  
10 for agricultural purposes to a depth of eighteen inches, ~~road and ditch~~  
11 ~~maintenance that does not extend below eighteen inches of original roadgrade~~  
12 ~~or ditch flowline within the road right-of-way, digging~~;

13 (b) Pot hole repair and grading of an existing public road if the pot hole repair and  
14 grading does not extend more than eighteen inches below the finished  
15 roadway;



1           (c) Any vehicle operation or operation involving the use of any hand tool, other  
2           than a power tool, so long as such operation does not extend more than  
3           eighteen inches below the surface of the groundline within the right-of-way;

4           (d) Any road and ditch repair or road and ditch activity that does not extend more  
5           than eighteen inches below the surface of the original groundline within the  
6           right-of-way;

7           (e) Digging in a cemetery, or digging; and

8           (f) Digging in a planned sanitary landfill;

9           Section 2. That § 49-7A-5 be amended to read as follows:

10          49-7A-5. No excavator may begin any excavation without first notifying the one-call  
11 notification center of the proposed excavation. The excavator shall give notice by telephone;  
12 ~~facsimile, in person,~~ or by other methods approved by the board pursuant to rules promulgated  
13 pursuant to chapter 1-26 to the one-call notification center at least forty-eight hours prior to the  
14 commencement of the excavation, excluding Saturdays, Sundays, and legal holidays of the state;  
15 ~~but not more than ten business days prior to any excavation.~~ The board may promulgate rules  
16 to reduce the forty-eight-hour interval for emergency or subsequent inquiries to the original  
17 locate request and may lengthen the forty-eight-hour interval for nonexcavation requests.

18          Section 3. That § 49-7A-27 be amended to read as follows:

19          49-7A-27. The board shall accept the recommendations of the panel unless either party  
20 requests a hearing. The A party requests a hearing by rejecting the panel's recommendation  
21 within twenty days from the date of service of the notice. However, the board may extend the  
22 time period for requesting a hearing. Failure to request a hearing is considered acceptance of the  
23 panel's recommendation. If a hearing is held, the hearing shall be conducted before the board  
24 as a contested case under chapter 1-26. Following the hearing, the board shall either render a

1 decision dismissing the complaint for insufficient evidence or shall impose a penalty pursuant  
2 to the provisions of § 49-7A-18 or 49-7A-19.

# State of South Dakota

EIGHTY-SECOND SESSION  
LEGISLATIVE ASSEMBLY, 2007

429N0104

SENATE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **SB 82** - 02/05/2007

Introduced by: Senators Dempster, Albers, Gray, Hanson (Gary), Heidepriem, Hunhoff, and McCracken and Representatives Hargens, Gillespie, Howie, Moore, Rave, Rhoden, and Rounds

1 FOR AN ACT ENTITLED, An Act to revise certain fees charged by sheriffs.

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

3 Section 1. That § 7-12-18 be amended to read as follows:

4 7-12-18. The sheriff shall charge and remit the following:

5 (1) For serving an order of arrest with commitment or bail bond and return, ~~ten~~ twenty-  
6 five dollars;

7 (2) ~~For each search on a search warrant, four dollars;~~

8 ~~—(3) For arresting under search warrant, each defendant, six dollars;~~

9 ~~—(4) For serving summons, complaint, warrant of attachment, affidavit, notice and~~  
10 ~~undertaking in claim and delivery, or injunction, order to show cause, citation, or~~  
11 ~~other process, and return thereof, sixteen dollars and fifty cents~~ of the instrument,

12 twenty-five dollars for all such process or instruments served at the same time upon  
13 the same person regardless of the capacities in which such person is served, ~~but,~~

14 However, for all such process or instruments served upon another such person at



- 1 approximately the same time at the same place, five dollars;
- 2 ~~(5)~~(3) For serving subpoena for witness, each person, ~~seven dollars and fifty cents~~ ten
- 3 dollars;
- 4 ~~(6)~~ For taking and filing undertaking in claim and delivery or other indemnification to
- 5 ~~be furnished to and approved by the sheriff, six dollars~~;
- 6 ~~(7)~~(4) For traveling expenses in cars or planes owned by the sheriff, or necessary emergency
- 7 ~~vehicles~~ a motor vehicle, a minimum mileage allowance of at least three cents over
- 8 and above the rate set for state employees by the State Board of Finance but not more
- 9 than six cents above the rate set for state employees by the State Board of Finance,
- 10 as determined by the board of county commissioners, for each mile actually and
- 11 necessarily traveled by ~~car~~, motor vehicle. For traveling expenses in a private plane,
- 12 a mileage allowance of ten cents above the rate set for state employees by the State
- 13 Board of Finance for each mile actually and necessarily traveled by private plane;
- 14 ~~except. However,~~ actual cost may be paid for travel by train, bus, plane, or other
- 15 commercial vehicle;
- 16 ~~(8)~~(5) For serving writ of execution and return ~~thereof of the instrument~~, whether satisfied
- 17 or unsatisfied, ~~sixteen~~ thirty-five dollars;
- 18 ~~(9)~~(6) For levying writ of possession, ~~eleven~~ twenty-five dollars. However, if the sale of the
- 19 property levied upon is not subsequently held, the actual costs or expenses associated
- 20 with levying writ of possession shall be paid;
- 21 ~~(10)~~ For serving notice upon each juror who refuses or neglects to accept service of
- 22 summons mailed by the clerk, four dollars, and twenty cents for each mile actually
- 23 and necessarily traveled;
- 24 ~~(11)~~ For each person not on the regular panel called as a juror during any term of court by

1           order of the court, two dollars, and fifteen cents for each mile actually and necessarily  
2           traveled;

3   —(12)— For summoning special jury, for each person impaneled, two dollars;

4   —(13)— For serving notice of motion or other notice or order of court, two dollars;

5   —(14)— For executing writ of habeas corpus and return, three dollars and twenty-five cents;

6   —(15)— For serving writ of restitution and return, eight dollars;

7   —(16)— For calling inquest to appraise any goods and chattels which the sheriff may be  
8           required to have appraised, four dollars; and to each appraiser to be taxed as cost, ten  
9           dollars;

10   (17)(7)     For advertisement of sale in newspaper, in addition to printing, ~~seven~~ twenty-  
11           five dollars;

12   (18)(8)     For posting notices of sale of real property, ~~five~~ twenty-five dollars, and  
13           mileage;

14   (19)(9)     For executing writ or order of partition, ~~thirteen~~ twenty-five dollars;

15   (20)(10)    For making deed for land sold on execution or order of sale, ~~twenty-six~~ fifty  
16           dollars except no fee is charged when the deed only requires the sheriff's  
17           signature;

18   (21)(11)    In addition to the applicable fees and expenses, a commission on all money  
19           received and disbursed by the sheriff on execution or order of sale, order of  
20           attachment, decree or on sale of real property or personal property, for each  
21           dollar not exceeding four hundred dollars, ~~nine~~ eleven cents; for each dollar  
22           above four hundred dollars, and not exceeding one thousand dollars, ~~five~~  
23           seven cents; for each dollar above one thousand dollars, ~~not to exceed and not~~  
24           exceeding fifteen thousand dollars, five cents; for each dollar above fifteen

1            thousand dollars, and not exceeding twenty-five thousand dollars, three cents;  
 2            ~~but. However,~~ in no case may the commission be less than ~~fifteen~~ twenty-five  
 3            dollars. The commissions shall be included as a part of the cost of execution,  
 4            order of sale, order of attachment, decree, or on sale of real or personal  
 5            property, which shall be paid by the debtor out of the proceeds. However, in  
 6            all cases of redemption prior to the sale, the sheriff is entitled to the  
 7            commission as stated above, to be paid by the redemptioner as a cost of the  
 8            redemption;

9            ~~(22)~~(12) For cases in the circuit court, if persons, in whose favor an execution or order  
 10           of sale is issued, bid in the property sold on execution or decree, the sheriff or  
 11           officer making the sale shall receive the following compensation: If the  
 12           amount for which the property is bid in is one thousand dollars or less, the sum  
 13           of twenty dollars; ~~if.~~ If the amount for which the property is bid in is more  
 14           than one thousand dollars, the sum of ~~forty~~ fifty dollars;

15           ~~(23)~~(13) For making a sale of real property under a foreclosure of mortgage by  
 16           advertisement, the same fees as for the sale of real property under a judgment  
 17           of foreclosure and sale of real property; and

18           ~~(24)~~(14) If personal property is taken by the sheriff on execution or warrant of  
 19           attachment and applied in the satisfaction of the debt without sale, the same  
 20           percentage on the appraised value of the property as in the case of a sale and  
 21           all additional reasonable and necessary costs and expenses incurred in  
 22           executing the duties of sheriff ~~under this chapter to the extent that such costs~~  
 23           ~~and expenses are not otherwise reimbursed~~ including expenses associated with  
 24           the removal of property from the premises.

- 1 No fee may be charged in any action under § 25-10-3, 25-10-6, 22-19A-8, or 22-19A-12.
- 2 The fees established pursuant to this section shall be used for law enforcement purposes.

# State of South Dakota

EIGHTY-SECOND SESSION  
LEGISLATIVE ASSEMBLY, 2007

336N0190

## SENATE ENGROSSED NO. **SB 84** - 02/20/2007

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

Introduced by: Senators Hansen (Tom), McNenny, and Peterson (Jim) and Representatives Dennert, Elliott, Hargens, Juhnke, Lust, Sigdestad, and Turbiville

1 FOR AN ACT ENTITLED, An Act to increase the maximum fees for conducting weights and  
2 measures inspections and testing.

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

4 Section 1. That § 37-21-9.1 be amended to read as follows:

5 37-21-9.1. The Division of Commercial Inspection and Licensing shall charge and collect  
6 a ~~maximum ten dollar~~ fee for each inspection and testing of any weight, measure, and weighing  
7 and measuring device. From July 1, 2007, through June 30, 2008, the fee is sixteen dollars.  
8 From July 1, 2008, through June 30, 2009, the fee is twenty-two dollars. On July 1, 2009, and  
9 thereafter, the fee is twenty-eight dollars. The fee shall be paid upon demand of the division by  
10 the person, firm, or corporation owning or operating the weight, measure, or weighing or  
11 measuring device inspected or tested. A ~~maximum fee of five dollars~~ shall be charged and  
12 collected for each inspection and testing of gasoline and diesel stationary fuel pump meters.  
13 From July 1, 2007, through June 30, 2008, the fee is eight dollars. From July 1, 2008, through  
14 June 30, 2009, the fee is eleven dollars. On July 1, 2009, and thereafter, the fee is fourteen  
15 dollars. A ~~maximum fee of fifteen dollars~~ shall be charged and collected for each inspection and



1 testing of gasoline and diesel high speed stationary fuel pump meters and for refined fuel truck  
2 meters. From July 1, 2007, through June 30, 2008, the fee is twenty-five dollars. From July 1,  
3 2008, through June 30, 2009, the fee is thirty-six dollars. On July 1, 2009, and thereafter, the  
4 fee is forty-six dollars. A maximum fee of fifteen dollars shall be collected for refined fuel truck  
5 meters. If a special or emergency inspection is requested, a charge, not to exceed the actual cost  
6 of such inspection, including costs for personnel, equipment, and mileage, shall be made and  
7 assessed against the requesting individual or device owner. ~~All fees, except those for special or~~  
8 ~~emergency inspection, shall be promulgated by the secretary of the Department of Public Safety~~  
9 ~~pursuant to chapter 1-26. One-half of the inspection program funding shall be derived from the~~  
10 general fund and the other half from fees collected pursuant to this Act.

11 Section 2. That § 37-22-10 be amended to read as follows:

12 37-22-10. The Division of Commercial Inspection and Licensing shall charge and collect  
13 a fee for each inspection or testing of scales. The fee shall be paid upon demand of the division  
14 by the person, firm, or corporation owning or operating the scale inspected or tested. The  
15 ~~maximum~~ schedule of fees is as follows:

- 16 (1) Up to and including 2,000 pounds capacity ~~---fifteen dollars;~~  
17 (a) From July 1, 2007, through June 30, 2008 - twenty dollars;  
18 (b) From July 1, 2008, through June 30, 2009 - twenty-four dollars;  
19 (c) Beginning July 1, 2009 - twenty-nine dollars;  
20 (2) 2,001 to 5,000 pounds capacity, inclusive ~~---twenty-five dollars;~~  
21 (a) From July 1, 2007, through June 30, 2008 - thirty-three dollars;  
22 (b) From July 1, 2008, through June 30, 2009 - forty-one dollars;  
23 (c) Beginning July 1, 2009 - forty-eight dollars;  
24 (3) 5,001 to 40,000 pounds capacity, inclusive ~~---sixty dollars;~~

- 1           (a) From July 1, 2007, through June 30, 2008 - sixty-seven dollars;
- 2           (b) From July 1, 2008, through June 30, 2009 - seventy-five dollars;
- 3           (c) Beginning July 1, 2009 - eighty-two dollars;
- 4       (4) ~~Over 40,000 pounds capacity--seventy-five dollars;~~
  - 5           (a) From July 1, 2007, through June 30, 2008 - eighty-four dollars;
  - 6           (b) From July 1, 2008, through June 30, 2009 - ninety-four dollars;
  - 7           (c) Beginning July 1, 2009 - one hundred three dollars;
- 8       (5) ~~All livestock scales--one hundred dollars;~~
  - 9           (a) From July 1, 2007, through June 30, 2008 - one hundred twenty-four dollars;
  - 10          (b) From July 1, 2008, through June 30, 2009 - one hundred forty-eight dollars;
  - 11          (c) Beginning July 1, 2009 - one hundred seventy-three dollars.

12       If a special or emergency inspection is requested, a charge, not to exceed the actual cost of  
 13 such inspection, including costs for personnel, equipment, and mileage, shall be made and  
 14 assessed against the requesting individual or device owner. One-half of the inspection program  
 15 funding shall be derived from the general fund and the other half from fees collected pursuant  
 16 to this Act.

17       Section 3. That § 34-39-3 be amended to read as follows:

18       34-39-3. The Department of Public Safety may test all weighing and measuring devices used  
 19 in the wholesale or retail sale of liquefied petroleum gas, either in liquid or vapor form, and  
 20 shall condemn or reject for repair, any device which is found either to be inaccurate or does not  
 21 clearly state the quantity of liquefied petroleum gas, either in liquid or vapor form, in pounds,  
 22 gallons, cubic feet, or other unit approved by the department.

23       The department shall charge and collect a ~~maximum twenty-dollar~~ fee for each test. ~~The fee~~  
 24 ~~shall be promulgated by the secretary of public safety pursuant to chapter 1-26.~~ From July 1,

1 2007, through June 30, 2008, the fee is thirty-six dollars. From July 1, 2008, through June 30,  
2 2009, the fee is fifty-two dollars. On July 1, 2009, and thereafter, the fee is sixty-eight dollars.  
3 Revenue from the fee shall be deposited into the state general fund.

4 Any inspector employed by the department may enter and examine any liquefied petroleum  
5 gas plant for safety standard purposes no more than every two years, except for any reinspection  
6 resulting from a deficiency. The department shall charge and collect a ~~maximum one hundred~~  
7 ~~dollar~~ fee for each inspection. ~~The fee shall be promulgated by the secretary of public safety~~  
8 ~~pursuant to chapter 1-26. From July 1, 2007, through June 30, 2008, the fee is fifty-eight dollars.~~  
9 From July 1, 2008, through June 30, 2009, the fee is seventy-six dollars. On July 1, 2009, and  
10 thereafter, the fee is ninety-four dollars.

11 For the purposes of this section, a liquefied petroleum gas plant is a retail distribution  
12 facility with a capacity of at least eight thousand gallons. One-half of the inspection program  
13 funding shall be derived from the general fund and the other half from fees collected pursuant  
14 to this Act.

15 Section 4. That § 37-21A-3 be amended to read as follows:

16 37-21A-3. The director shall charge an annual registration fee ~~of twenty-five dollars per for~~  
17 ~~service agency plus five dollars per agencies and for registered serviceman~~ servicemen to cover  
18 administrative costs. From July 1, 2007, through June 30, 2008, the fee for each agency is forty  
19 dollars and the fee for each serviceman is seven dollars. From July 1, 2008, through June 30,  
20 2009, the fee for each agency is fifty-five dollars and the fee for each serviceman is eight  
21 dollars. On July 1, 2009, and thereafter, the fee for each agency is sixty-nine dollars and the fee  
22 for each serviceman is ten dollars. The fee shall be paid when the registration or renewal  
23 application is made. One-half of the inspection program funding shall be derived from the  
24 general fund and the other half from fees collected pursuant to this Act.

1 Section 5. That § 37-21A-7 be amended to read as follows:

2 37-21A-7. A registered serviceman and a registered service agency shall submit, annually  
3 to the director, for examination and certification, any standards and testing equipment that are  
4 used, or are to be used, in the performance of the service and testing functions with respect to  
5 weighing and measuring devices for which competence is registered. No registered service  
6 person or agency may use in servicing any commercial weighing or measuring device any  
7 standards or testing equipment that have not been certified by the director. The Department of  
8 Public Safety shall charge a fee ~~not to exceed the actual cost of~~ for such examination and  
9 certification, ~~including costs for personnel, equipment, and mileage.~~ From July 1, 2007, through  
10 June 30, 2008, the fee is sixty-two dollars per hour. From July 1, 2008, through June 30, 2009,  
11 the fee is seventy-nine dollars per hour. On July 1, 2009, and thereafter, the fee is ninety-six  
12 dollars per hour. One-half of the inspection program funding shall be derived from the general  
13 fund and the other half from fees collected pursuant to this Act.

# State of South Dakota

EIGHTY-SECOND SESSION  
LEGISLATIVE ASSEMBLY, 2007

625N0530

SENATE EDUCATION COMMITTEE ENGROSSED NO.

**SB 101** - 02/01/2007

Introduced by: Senators Bartling, Albers, Gant, Jerstad, McCracken, McNenny, Nesselhuf, Olson (Ed), and Peterson (Jim) and Representatives Gillespie, Cutler, Dennert, DeVries, Dykstra, Elliott, Halverson, Nelson, Rounds, and Willadsen

1 FOR AN ACT ENTITLED, An Act to establish a governance policy for school boards.

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

3 Section 1. That § 13-8-10 be amended to read as follows:

4 13-8-10. The annual meeting shall be held on the second Monday of July unless otherwise  
5 designated by the board at the prior regular meeting. Regular meetings shall be on the second  
6 Monday of each month unless otherwise designated by the board at the annual meeting. At the  
7 annual meeting the school board shall organize by the election of a president and a vice  
8 president from its membership, and such officers shall serve until the next annual meeting. The  
9 board shall designate the depository or depositories as provided in § 13-16-15, and the  
10 custodians of all accounts; and designate the legal newspaper to be used for publishing all  
11 official notices and proceedings. A majority of the members of the school board constitutes a  
12 quorum for the purpose of conducting business. Any board action may be taken if it is approved  
13 by the majority of the members voting.

14 Special meetings may be held upon call of the president or in ~~his~~ the president's absence by



1 the vice-president, or a majority of the board members. Notice of such meeting shall be given  
2 by the business manager to the board members either orally or in writing in sufficient time to  
3 permit their presence.

# State of South Dakota

EIGHTY-SECOND SESSION  
LEGISLATIVE ASSEMBLY, 2007

652N0464

SENATE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **SB 123** - 01/29/2007

Introduced by: Senators Albers, Abdallah, Apa, Bartling, Gant, Gray, Nesselhuf, and Olson (Ed) and Representatives Hargens, Cutler, Deadrick, Dykstra, Gillespie, Lust, Moore, Pederson (Gordon), Rave, Weems, and Willadsen

1 FOR AN ACT ENTITLED, An Act to provide that sheriffs receive payment for marshaling  
2 assets for an execution of judgment or execution sale even if no sale occurs.

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

4 Section 1. That § 15-18-32 be amended to read as follows:

5 15-18-32. The party for whom the execution was issued or ~~his~~ the party's attorney of record,  
6 or otherwise authorized, may abandon proceedings under any execution at any time by filing  
7 with the court from which issued a written statement of such abandonment, or by causing the  
8 writ to be returned and filed with an endorsement to the effect that it had been so abandoned,  
9 and by paying the costs of such execution and proceedings thereunder, including any actual out-  
10 of-pocket expenses and reasonable costs incurred by the sheriff, and by discharging of record  
11 any notice of levy which has been filed in any recording or registry office, and by releasing any  
12 property seized thereunder. All proceedings, notices, levies, and liens taken pursuant to such  
13 execution shall be deemed abandoned, discharged, and released upon the filing of such  
14 statement or endorsement. The abandonment of an execution as herein permitted shall be



1 without prejudice to the issue of subsequent executions.

2 Section 2. That § 15-19-35 be amended to read as follows:

3 15-19-35. ~~It shall be the duty of every~~ Every officer or person who conducts an execution  
4 sale ~~to~~ shall apply the proceeds of such sale:

5 (1) To the payment of the costs and expenses of the sale, including any actual out-of-  
6 pocket expenses and reasonable costs incurred by a sheriff;

7 (2) To the satisfaction of the execution under which the sale is made;

8 (3) To the satisfaction of any other execution in ~~his~~ the officer's or person's hands, to  
9 which such proceeds may be lawfully applied;

10 (4) To pay the surplus, if any, to the defendant, or into court for the use of the defendant  
11 or the person entitled thereto, subject to the order of the court. If such surplus or any  
12 part thereof ~~shall remain~~ remains in the court for the term of three months without  
13 being applied for, the court may direct the same to be put out at interest for the  
14 benefit of the defendant, ~~his~~ the defendant's representatives, or assigns, subject to the  
15 order of the court.

# State of South Dakota

EIGHTY-SECOND SESSION  
LEGISLATIVE ASSEMBLY, 2007

607N0419

SENATE HEALTH AND HUMAN SERVICES

COMMITTEE ENGROSSED NO. **SB 130** - 02/14/2007

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

Introduced by: Senators Dempster, Hansen (Tom), Heidepriem, Jerstad, Katus, and Olson (Ed) and Representatives Dykstra, Cutler, Jerke, Nygaard, and Rave

1 FOR AN ACT ENTITLED, An Act to permit the Department of Health to provide an electronic  
2 report of marriages upon request.

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

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

6 Any electronic list of persons married in South Dakota may be released by the Department  
7 of Health or the local registrar of deeds.



# State of South Dakota

EIGHTY-SECOND SESSION  
LEGISLATIVE ASSEMBLY, 2007

445N0285

## SENATE ENGROSSED NO. **SB 135** - 02/07/2007

Introduced by: Senators Bartling, Albers, Gant, Gray, Hanson (Gary), Koetzle, McCracken, Nesselhuf, Olson (Ed), and Turbak and Representatives Hargens, Cutler, Dykstra, Gillespie, Hanks, Hunt, Lucas, Moore, Noem, Pederson (Gordon), Pitts, Rave, Rounds, and Weems

1 FOR AN ACT ENTITLED, An Act to increase the minimum salary payable to county officials,  
2 state's attorneys, and sheriffs.

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

4 Section 1. That § 7-7-9.1 be amended to read as follows:

5 7-7-9.1. The board of county commissioners shall establish, by resolution, the salary payable  
6 to the county treasurer, county auditor, and county register of deeds. The salary payable may not  
7 be less than the following schedule as based upon the most recent decennial federal census of  
8 population for counties:

9	County Population	Salary Schedule
10	Below 10,000	<del>\$25,689</del> <u>\$27,480</u>
11	10,000-14,999	<del>26,234</del> <u>\$28,062</u>
12	15,000-24,999	<del>27,305</del> <u>\$29,208</u>
13	25,000-69,999	<del>29,983</del> <u>\$32,073</u>
14	70,000 and over	<del>32,324</del> <u>\$34,577</u>

15 The board of county commissioners may not decrease the salary of the county treasurer,



1 county auditor, or county register of deeds during consecutive terms of office of the county  
2 treasurer, county auditor, or county register of deeds.

3 Section 2. That § 7-7-9.1 be amended to read as follows:

4 7-7-9.1. The board of county commissioners shall establish, by resolution, the salary payable  
5 to the county treasurer, county auditor, and county register of deeds. The salary payable may not  
6 be less than the following schedule as based upon the most recent decennial federal census of  
7 population for counties:

8	County Population	Salary Schedule
9	Below 10,000	<del>\$25,689</del> <u>\$29,270</u>
10	10,000-14,999	<del>26,234</del> <u>\$29,891</u>
11	15,000-24,999	<del>27,305</del> <u>\$31,111</u>
12	25,000-69,999	<del>29,983</del> <u>\$34,163</u>
13	70,000 and over	<del>32,324</del> <u>\$36,830</u>

14 The board of county commissioners may not decrease the salary of the county treasurer,  
15 county auditor, or county register of deeds during consecutive terms of office of the county  
16 treasurer, county auditor, or county register of deeds.

17 Section 3. That § 7-7-10.1 be amended to read as follows:

18 7-7-10.1. The board of county commissioners shall establish, by resolution, the salary  
19 payable for the combination of two or more of the following county elected positions. The salary  
20 payable may not be less than the minimum salary provided by this section as based upon the  
21 most recent decennial federal census of population for counties.

22 For the combination of two of the following: county treasurer, county auditor, or county  
23 register of deeds, the minimum salary for counties shall be:

24	County Population	Salary Schedule
----	-------------------	-----------------

1	Below 10,000	<del>\$27,000</del> <u>\$28,881</u>
2	10,000-14,999	<del>28,500</del> <u>\$30,485</u>
3	15,000-24,999	<del>30,000</del> <u>\$32,090</u>
4	25,000-69,999	<del>33,000</del> <u>\$35,300</u>
5	70,000 and over	<del>36,000</del> <u>\$38,510</u>

6 For the combination of all three of the following: county treasurer, county auditor, and  
7 county register of deeds, the minimum salary for counties shall be:

8	County Population	Salary Schedule
9	Below 10,000	<del>\$29,000</del> <u>\$31,020</u>
10	10,000-14,999	<del>30,500</del> <u>\$32,625</u>
11	15,000-24,999	<del>32,000</del> <u>\$34,230</u>
12	25,000-69,999	<del>35,000</del> <u>\$37,440</u>
13	70,000 and over	<del>39,000</del> <u>\$41,720</u>

14 Section 4. That § 7-7-10.1 be amended to read as follows:

15 7-7-10.1. The board of county commissioners shall establish, by resolution, the salary  
16 payable for the combination of two or more of the following county elected positions. The salary  
17 payable may not be less than the minimum salary provided by this section as based upon the  
18 most recent decennial federal census of population for counties.

19 For the combination of two of the following: county treasurer, county auditor, or county  
20 register of deeds, the minimum salary for counties shall be:

21	County Population	Salary Schedule
22	Below 10,000	<del>\$27,000</del> <u>\$30,764</u>
23	10,000-14,999	<del>28,500</del> <u>\$32,475</u>
24	15,000-24,999	<del>30,000</del> <u>\$34,185</u>
25	25,000-69,999	<del>33,000</del> <u>\$37,600</u>
26	70,000 and over	<del>36,000</del> <u>\$41,018</u>

1 For the combination of all three of the following: county treasurer, county auditor, and  
2 county register of deeds, the minimum salary for counties shall be:

3	County Population	Salary Schedule
4	Below 10,000	<del>\$29,000</del> <u>\$33,045</u>
5	10,000-14,999	<del>30,500</del> <u>\$34,752</u>
6	15,000-24,999	<del>32,000</del> <u>\$36,460</u>
7	25,000-69,999	<del>35,000</del> <u>\$39,880</u>
8	70,000 and over	<del>39,000</del> <u>\$44,437</u>

9 Section 5. That § 7-7-12 be amended to read as follows:

10 7-7-12. The board of county commissioners shall establish, by resolution, the salary payable  
11 to the state's attorney. The salary payable may not be less than the following schedule as based  
12 upon the most recent decennial federal census of population for counties:

13	County Population	Salary Schedule
14	Below 5,000	<del>\$26,250</del> <u>\$28,075</u>
15	5,000 - 9,999	<del>\$28,600</del> <u>\$30,600</u>
16	10,000 - 20,000	<del>\$33,800</del> <u>\$36,150</u>
17	20,000 - 49,999	<del>\$36,250</del> <u>\$38,775</u>

18 In counties of over fifty thousand population where a full-time state's attorney is required  
19 or in counties where the commissioners designate the position full-time the sum of ~~fifty-four~~  
20 ~~thousand four hundred~~ fifty-eight thousand one hundred fifty dollars per year. In counties of less  
21 than fifty thousand population the commissioners may designate the position full-time. The  
22 decision by the commissioners shall be adopted prior to the first day of January in the year of  
23 the election and may not be amended for that term of office. However, if no state's attorney is  
24 elected to the office at any general election, the board of county commissioners may contract  
25 for such legal services and negotiate the compensation therefor on terms and conditions

1 determined by the board of county commissioners. The board of county commissioners may not  
2 decrease the salary of the state's attorney during consecutive terms of office of the state's  
3 attorney.

4 Section 6. That § 7-7-12 be amended to read as follows:

5 7-7-12. The board of county commissioners shall establish, by resolution, the salary payable  
6 to the state's attorney. The salary payable may not be less than the following schedule as based  
7 upon the most recent decennial federal census of population for counties:

8 County Population	Salary Schedule
9 Below 5,000	\$ <del>26,250</del> <u>\$29,900</u>
10 5,000 - 9,999	\$ <del>28,600</del> <u>\$32,600</u>
11 10,000 - 20,000	\$ <del>33,800</del> <u>\$38,500</u>
12 20,000 - 49,999	\$ <del>36,250</del> <u>\$41,300</u>

13 In counties of over fifty thousand population where a full-time state's attorney is required  
14 or in counties where the commissioners designate the position full-time the sum of ~~fifty-four~~  
15 ~~thousand four hundred~~ sixty-one thousand nine hundred dollars per year. In counties of less than  
16 fifty thousand population the commissioners may designate the position full-time. The decision  
17 by the commissioners shall be adopted prior to the first day of January in the year of the election  
18 and may not be amended for that term of office. However, if no state's attorney is elected to the  
19 office at any general election, the board of county commissioners may contract for such legal  
20 services and negotiate the compensation therefor on terms and conditions determined by the  
21 board of county commissioners. The board of county commissioners may not decrease the salary  
22 of the state's attorney during consecutive terms of office of the state's attorney.

23 Section 7. That § 7-12-15 be amended to read as follows:

24 7-12-15. The board of county commissioners shall establish, by resolution, the salary  
25 payable to the sheriff. The salary payable may not be less than the following schedule based

1 upon the most recent decennial federal census of population of counties.

2	County Population	Salary Schedule
3	Below 10,000	<del>\$31,299</del> <u>\$33,700</u>
4	10,000-14,999	<del>\$33,917</del> <u>\$36,300</u>
5	15,000-24,999	<del>\$35,017</del> <u>\$37,451</u>
6	25,000-69,999	<del>\$39,217</del> <u>\$41,943</u>
7	70,000 and over	<del>\$42,590</del> <u>\$45,550</u>

8 The board of county commissioners may not decrease the salary of the sheriff during  
9 consecutive terms of office of the sheriff. Any sheriff having responsibility for managing a  
10 full-time jail shall receive an additional ten percent added to the base salary listed in this section.

11 Section 8. That § 7-12-15 be amended to read as follows:

12 7-12-15. The board of county commissioners shall establish, by resolution, the salary  
13 payable to the sheriff. The salary payable may not be less than the following schedule based  
14 upon the most recent decennial federal census of population of counties.

15	County Population	Salary Schedule
16	Below 10,000	<del>\$31,299</del> <u>\$35,700</u>
17	10,000-14,999	<del>\$33,917</del> <u>\$38,700</u>
18	15,000-24,999	<del>\$35,017</del> <u>\$39,900</u>
19	25,000-69,999	<del>\$39,217</del> <u>\$44,700</u>
20	70,000 and over	<del>\$42,590</del> <u>\$48,600</u>

21 The board of county commissioners may not decrease the salary of the sheriff during  
22 consecutive terms of office of the sheriff. Any sheriff having responsibility for managing a  
23 full-time jail shall receive an additional ten percent added to the base salary listed in this section.

24 Section 9. Sections 1, 3, 5, and 7 of this Act are effective on January 1, 2008. Sections 2,  
25 4, 6, and 8 of this Act are effective on January 1, 2009.

# State of South Dakota

EIGHTY-SECOND SESSION  
LEGISLATIVE ASSEMBLY, 2007

493N0646

SENATE JUDICIARY COMMITTEE ENGROSSED NO.

**SB 136** - 02/07/2007

Introduced by: Senators Gant and Apa and Representatives Peters, Buckingham, and Gillespie

1 FOR AN ACT ENTITLED, An Act to provide for the release of the juvenile monitor's report  
2 after clearance by the attorney general and to provide for a confidential addendum to the  
3 report.

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

5 Section 1. That chapter 26-11A be amended by adding thereto a NEW SECTION to read  
6 as follows:

7 Prior to the release of the semi-annual report of the monitor as provided for in subdivision  
8 26-11A-27(4), the attorney general shall certify that that report does not disclose the identity of  
9 any juvenile or other person in violation of the provisions of § 26-11A-30 or 26-11A-33. Upon  
10 such certification, the monitor's semi-annual report is deemed an open record.

11 Section 2. That § 26-11A-27 be amended to read as follows:

12 26-11A-27. The monitor created in § 26-11A-25 shall:

13 (1) Investigate incidents of abuse or neglect of such individuals within the juvenile  
14 corrections facilities, if the incidents are reported to the monitor or if there is  
15 reasonable suspicion to believe that the incidents occurred;



- 1 (2) Access any individual in the custody or care of juvenile corrections facilities and any  
2 employee in the employ of the State of South Dakota or any of its political  
3 subdivisions;
- 4 (3) Access any records of or relating to any individual in the custody or care of juvenile  
5 facilities;
- 6 (4) Provide a semi-annual report to the Governor, the Legislature, the Corrections  
7 Commission established by § 1-15-1.13, the secretary of the Department of Human  
8 Services, and the secretary of the Department of Corrections. The report shall contain  
9 the activities of the monitor for the six-month period immediately prior to the report.  
10 Activities shall reflect the number of referrals to the monitor, the number of  
11 investigations completed, ~~results of the investigations, corrective actions taken, a~~  
12 brief description of any investigation that resulted in a finding of abuse or neglect,  
13 and a summary of other activities performed by the monitor;
- 14 (5) Provide training and assistance to employees of the Department of Corrections in  
15 areas within the scope of the monitor's position;
- 16 (6) Review Department of Corrections' policies dealing with juvenile's rights to ensure  
17 compliance with federal and state laws, rules, and policy;
- 18 (7) Provide reasonable notification of the existence and role of the monitor to all  
19 individuals in the custody or care of a juvenile corrections facility and the custodial  
20 parent or guardian;
- 21 (8) Submit a confidential addendum to each semiannual report to the Government  
22 Operations and Audit committee created in § 2-6-2, the Governor, the secretary of  
23 the Department of Human Services, and the secretary of the Department of  
24 Corrections. This addendum shall contain a description of each case investigated, the

- 1 specific findings and recommendations of the juvenile corrections monitor, and the
- 2 Department of Corrections' response to the recommendations.

# State of South Dakota

EIGHTY-SECOND SESSION  
LEGISLATIVE ASSEMBLY, 2007

654N0073

HOUSE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **SB 153** - 02/27/2007

Introduced by: Senators Lintz, Gray, and McCracken and Representatives Rounds, Moore,  
and Pitts

1 FOR AN ACT ENTITLED, An Act to provide for the suspension of certain county officials  
2 pending completion of criminal prosecutions.

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

4 Section 1. That chapter 3-17 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 If any officer is arrested for or charged with any offense against the laws of this state or the  
7 United States of America, and the board of county commissioners is informed that criminal  
8 proceedings are pending before any court or officer, the board of county commissioners may in  
9 the case of a Class 1 misdemeanor charge that is relevant to the responsibilities and duties of  
10 the office and shall in the case of a felony charge suspend that officer from office until such  
11 charge is prosecuted. The officer who is suspended pursuant to this section is relieved from all  
12 responsibilities provided by law which are pertinent to that office. The county commission shall  
13 appoint one of the officer's assistants or a suitable person to discharge the duties of the office  
14 during any suspension imposed in accordance with the provisions of sections 1 to 3, inclusive,  
15 of this Act. If it is determined during the criminal proceeding that the officer suspended is not



1 guilty of the offense charged, the court shall so notify the board of county commissioners. If the  
2 term for which the officer was elected or appointed has not expired, the suspended officer shall  
3 be restored to that office by the board of county commissioners. For the purposes of sections 1  
4 to 3, inclusive, of this Act, the term, officer, includes the county auditor, county treasurer, and  
5 county register of deeds.

6 Section 2. That chapter 3-17 be amended by adding thereto a NEW SECTION to read as  
7 follows:

8 Any officer who is suspended from employment in accordance with the provisions of section  
9 1 of this Act shall assume leave of absence status and shall receive the same salary and  
10 employment benefits to which the officer would otherwise be entitled to be paid by the county.  
11 Except as otherwise provided in sections 1 to 3, inclusive, of this Act, an officer who is  
12 suspended pursuant to section 1 of this Act has the same rights, benefits, and obligations as any  
13 county employee who is on a leave of absence status for any other purpose. Notwithstanding any  
14 other provision of law, an officer shall receive credit for the period of suspension toward any  
15 retirement benefit afforded by the county, if the officer is reinstated pursuant to section 1 of this  
16 Act.

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

19 The county in which an officer is temporarily appointed pursuant to this section 1 of this Act  
20 shall pay the appointee for services and expenses in an amount determined and fixed by the  
21 board of county commissioners for such office. Any person temporarily appointed as an officer  
22 may discharge all the duties of such office.

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

1        If any county commissioner is arrested for or charged with any offense against the laws of  
2 this state or the United States of America, and the board of county commissioners is informed  
3 that criminal proceedings are pending before any court or officer, the remaining board of county  
4 commissioners may in the case of a Class 1 misdemeanor charge that is relevant to the  
5 responsibilities and duties of the office and shall in the case of a felony charge suspend that  
6 county commissioner from office until such charge is prosecuted. The county commissioner  
7 who is suspended pursuant to this section is relieved from all responsibilities provided by law  
8 which are pertinent to that office. If it is determined during the criminal proceeding that the  
9 county commissioner suspended is not guilty of the offense charged, this fact shall be certified  
10 to the board of county commissioners. If the term for which the county commissioner was  
11 elected or appointed has not expired, the suspended county commissioner shall be restored to  
12 that office by the remaining board of county commissioners.

13        Section 5. That chapter 3-17 be amended by adding thereto a NEW SECTION to read as  
14 follows:

15        This Act does not affect the provisions of law relating to the removal from office of any  
16 county commissioner, county auditor, county treasurer, or county register of deeds.

# State of South Dakota

EIGHTY-SECOND SESSION  
LEGISLATIVE ASSEMBLY, 2007

960N0070

SENATE TAXATION COMMITTEE ENGROSSED NO.

**SB 164** - 02/14/2007

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

Introduced by: Senators Greenfield, Lintz, and Turbak and Representatives Howie, Faehn, Koistinen, Nelson, Noem, and Pederson (Gordon)

1 FOR AN ACT ENTITLED, An Act to permit certain taxing districts to revise the amount of  
2 revenue payable from property taxes.

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

4 Section 1. That chapter 10-13 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 Any taxing district that did not levy a property tax for general fund purposes in any year  
7 since 1996 is exempt from the provisions of § 10-13-35 if the taxing district establishes the  
8 amount of revenue payable from taxes on real property for general fund purposes pursuant to  
9 section 2 of this Act. Each year thereafter such taxing district may increase the amount of  
10 revenue payable from property taxes by applying the growth and the index factor pursuant to  
11 § 10-13-35. Any excess levy imposed on property pursuant to § 10-13-36 terminates when a  
12 general fund levy is imposed by such taxing district pursuant to section 2 of this Act.

13 Section 2. That chapter 10-13 be amended by adding thereto a NEW SECTION to read as  
14 follows:



1 The governing body of a taxing district may, by resolution, impose the levy provided in  
2 section 1 of this Act with an affirmative two-thirds vote of the governing body on or before July  
3 fifteenth. The decision of the governing body to impose the levy shall be published within ten  
4 days of the decision as follows:

5 (1) Publication shall be made at least twice in the legal newspaper designated by the  
6 governing body pursuant to law, with no fewer than five days between publication  
7 dates, before the tax imposition takes effect;

8 (2) The announcement shall be at least three newspaper columns in width and four  
9 inches in length or at least one-sixth of a page in size, whichever size is greater;

10 (3) The announcement shall be headed with the following statement in a typeface no less  
11 than eighteen point type: "ATTENTION TAXPAYERS: NOTICE OF PROPERTY  
12 TAX IMPOSED OF \$(fill in amount)." The remainder of the announcement shall  
13 consist of a reproduction of the resolution including the amount that property taxes  
14 will be imposed and a statement of the right to refer the decision of the board to a  
15 vote of the people as provided in this section. The secretary of revenue and  
16 regulation, in rules promulgated pursuant to chapter 1-26, shall prescribe a uniform  
17 form to be used by the taxing district for notification of taxpayers as required by this  
18 section.

19 However, the requirements of subdivisions (2) and (3) are waived if:

20 (a) The property tax imposed is for less than fifteen thousand dollars; or

21 (b) A copy of the resolution is mailed to every property taxpayer in the taxing  
22 district, by first class mail or bulk mail, within twenty days of the decision;  
23 and

24 (c) A copy of the resolution is printed in each legal newspaper in the taxing

1 district's boundaries.

2 For the purposes of subsections (a),(b),and(c), the first publication is not deemed to have  
3 occurred until three days after the mailing is sent or the resolution is delivered to the legal  
4 newspaper.

5 The governing body's decision may be referred to a vote of the people upon a resolution of  
6 the governing body of the taxing district or by a petition signed by at least five percent of the  
7 registered voters in the taxing district and filed with the respective governing body within  
8 twenty days of the first publication of the decision. The referendum election shall be held on or  
9 before October first preceding the year the taxes are payable.

# State of South Dakota

EIGHTY-SECOND SESSION  
LEGISLATIVE ASSEMBLY, 2007

708N0475

## SENATE ENGROSSED NO. **SB 183** - 02/08/2007

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

Introduced by: Senators Peterson (Jim), Bartling, and Hanson (Gary) and Representatives Pitts, DeVries, Hargens, Rausch, Sigdestad, Street, and Tidemann

1 FOR AN ACT ENTITLED, An Act to exempt the production of certain plants and sod from  
2 sales and use taxes.

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

4 Section 1. That chapter 10-45 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 The production of any sod and any nursery, greenhouse, food-bearing, and ornamental plant  
7 is considered an agricultural purpose. If the sod and plants are raised with the intent to be  
8 ultimately sold at retail, the following products are hereby specifically exempted from the tax  
9 imposed by chapter 10-45, if the products are directly used in the production of the sod or  
10 plants:

11 (1) Any pesticide as defined in § 38-20A-1 and any product or substance used in  
12 conjunction with the pesticide as enumerated in § 10-45-16.1;

13 (2) Commercial fertilizer as defined in subdivision 38-19-1(5); and

14 (3) Fuel for agricultural purposes as defined in § 10-45-19.

15 No horticultural enterprise may receive the exemption pursuant to this section unless the



1 horticultural enterprise is a resident nurseryman, as defined in subdivision 38-24B-1(11),  
2 licensed by the South Dakota Department of Agriculture; a permanent standing greenhouse  
3 operating for more than three months per year, in which the main enterprise is the raising of  
4 plants from a seed, seedling, plug, or cutting to finish as a saleable product; a grower of sod as  
5 defined in subdivision 38-24B-1(14); or a commercial grower of fruits and vegetables if the  
6 products are ultimately sold at retail for human consumption.

7 Section 2. That chapter 10-46 be amended by adding thereto a NEW SECTION to read as  
8 follows:

9 The production of any sod and any nursery, greenhouse, food-bearing, and ornamental plant  
10 is considered an agricultural purpose. If the sod and plants are raised with the intent to be  
11 ultimately sold at retail, the following products are hereby specifically exempted from the tax  
12 imposed by chapter 10-46, if the products are directly used in the production of the sod or  
13 plants:

- 14 (1) Any pesticide as defined in § 38-20A-1 and any product or substance used in  
15 conjunction with the pesticide as enumerated in § 10-45-16.1;
- 16 (2) Commercial fertilizer as defined in subdivision 38-19-1(5); and
- 17 (3) Fuel for agricultural purposes as defined in § 10-45-19.

18 No horticultural enterprise may receive the exemption pursuant to this section unless the  
19 horticultural enterprise is a resident nurseryman, as defined in subdivision 38-24B-1(11),  
20 licensed by the South Dakota Department of Agriculture; a permanent standing greenhouse  
21 operating for more than three months per year, in which the main enterprise is the raising of  
22 plants from a seed, seedling, plug, or cutting to finish as a saleable product; a grower of sod as  
23 defined in subdivision 38-24B-1(14); or a commercial grower of fruits and vegetables if the  
24 products are ultimately sold at retail for human consumption.

# State of South Dakota

EIGHTY-SECOND SESSION  
LEGISLATIVE ASSEMBLY, 2007

823N0714

## HOUSE HEALTH AND HUMAN SERVICES COMMITTEE ENGROSSED NO. **SB 197** - 02/26/2007

Introduced by: Senators Dempster, Abdallah, Hanson (Gary), Knudson, and Maher and  
Representatives Lust, Cutler, Gillespie, and Rave

1 FOR AN ACT ENTITLED, An Act to adopt the Revised Uniform Anatomical Gift Act.

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

3 Section 1. This Act may be cited as the Revised Uniform Anatomical Gift Act.

4 Section 2. In this Act:

5 (1) "Adult" means an individual who is at least eighteen years of age.

6 (2) "Agent" means an individual:

7 (A) Authorized to make health care decisions on the principal's behalf by a power  
8 of attorney for health care; or

9 (B) Expressly authorized to make an anatomical gift on the principal's behalf by  
10 any other record signed by the principal.

11 (3) "Anatomical gift" means a donation of all or part of a human body to take effect after  
12 the donor's death for the purpose of transplantation, therapy, research, or education.

13 (4) "Decedent" means a deceased individual whose body or part is or may be the source  
14 of an anatomical gift. The term does not include a blastocyst, embryo, or fetus that  
15 is the subject of an induced abortion.



- 1 (5) "Disinterested witness" means a witness other than the spouse, child, parent, sibling,  
2 grandchild, grandparent, or guardian of the individual who makes, amends, revokes,  
3 or refuses to make an anatomical gift, or another adult who exhibited special care and  
4 concern for the individual. The term does not include a person to which an  
5 anatomical gift could pass under section 11 of this Act.
- 6 (6) "Document of gift" means a donor card or other record used to make an anatomical  
7 gift. The term includes a statement or symbol on a driver's license, identification  
8 card, or donor registry.
- 9 (7) "Donor" means an individual whose body or part is the subject of an anatomical gift.
- 10 (8) "Donor registry" means a database that contains records of anatomical gifts and  
11 amendments to or revocations of anatomical gifts.
- 12 (9) "Driver's license" means a license or permit issued by the Department of Public  
13 Safety to operate a vehicle, whether or not conditions are attached to the license or  
14 permit.
- 15 (10) "Eye bank" means a person that is licensed, accredited, or regulated under federal or  
16 state law to engage in the recovery, screening, testing, processing, storage, or  
17 distribution of human eyes or portions of human eyes.
- 18 (11) "Guardian" means a person appointed by a court to make decisions regarding the  
19 support, care, education, health, or welfare of an individual. The term does not  
20 include a guardian ad litem.
- 21 (12) "Hospital" means a facility licensed as a hospital under the law of any state or a  
22 facility operated as a hospital by the United States, a state, or a subdivision of a state.
- 23 (13) "Identification card" means an identification card issued by the Department of Public  
24 Safety.

- 1 (14) "Know" means to have actual knowledge.
- 2 (15) "Minor" means an individual who is under eighteen years of age.
- 3 (16) "Organ procurement organization" means a person designated by the Secretary of the  
4 United States Department of Health and Human Services as an organ procurement  
5 organization.
- 6 (17) "Parent" means a parent whose parental rights have not been terminated.
- 7 (18) "Part" means an organ, an eye, or tissue of a human being. The term does not include  
8 the whole body.
- 9 (19) "Person" means an individual, corporation, business trust, estate, trust, partnership,  
10 limited liability company, association, joint venture, public corporation, government  
11 or governmental subdivision, agency, or instrumentality, or any other legal or  
12 commercial entity.
- 13 (20) "Physician" means an individual authorized to practice medicine or osteopathy under  
14 the law of any state.
- 15 (21) "Procurement organization" means an eye bank, organ procurement organization, or  
16 tissue bank.
- 17 (22) "Prospective donor" means an individual who is dead or near death and has been  
18 determined by a procurement organization to have a part that could be medically  
19 suitable for transplantation, therapy, research, or education. The term does not  
20 include an individual who has made a refusal.
- 21 (23) "Reasonably available" means able to be contacted by a procurement organization  
22 without undue effort and willing and able to act in a timely manner consistent with  
23 existing medical criteria necessary for the making of an anatomical gift.
- 24 (24) "Recipient" means an individual into whose body a decedent's part has been or is

1 intended to be transplanted.

2 (25) "Record" means information that is inscribed on a tangible medium or that is stored  
3 in an electronic or other medium and is retrievable in perceivable form.

4 (26) "Refusal" means a record created under section 7 of this Act that expressly states an  
5 intent to bar other persons from making an anatomical gift of an individual's body or  
6 part.

7 (27) "Sign" means, with the present intent to authenticate or adopt a record:

8 (A) To execute or adopt a tangible symbol; or

9 (B) To attach to or logically associate with the record an electronic symbol, sound,  
10 or process.

11 (28) "State" means a state of the United States, the District of Columbia, Puerto Rico, the  
12 United States Virgin Islands, or any territory or insular possession subject to the  
13 jurisdiction of the United States.

14 (29) "Technician" means an individual determined to be qualified to remove or process  
15 parts by an appropriate organization that is licensed, accredited, or regulated under  
16 federal or state law. The term includes an enucleator.

17 (30) "Tissue" means a portion of the human body other than an organ or an eye. The term  
18 does not include blood unless the blood is donated for the purpose of research or  
19 education.

20 (31) "Tissue bank" means a person that is licensed, accredited, or regulated under federal  
21 or state law to engage in the recovery, screening, testing, processing, storage, or  
22 distribution of tissue.

23 (32) "Transplant hospital" means a hospital that furnishes organ transplants and other  
24 medical and surgical specialty services required for the care of transplant patients.

1 Section 3. This Act applies to an anatomical gift or amendment to, revocation of, or refusal  
2 to make an anatomical gift, whenever made.

3 Section 4. Subject to section 8 of this Act, an anatomical gift of a donor's body or part may  
4 be made during the life of the donor for the purpose of transplantation, therapy, research, or  
5 education in the manner provided in section 5 of this Act by:

- 6 (1) The donor, if the donor is an adult or if the donor is a minor and is:
  - 7 (A) Emancipated; or
  - 8 (B) Authorized under state law to apply for a driver's license because the donor is  
9 at least fourteen years of age, provided, that if the minor is unemancipated, a  
10 parent or guardian has consented that the organ donor indicator be placed on  
11 the minor's driver license or nondriver identification card;
- 12 (2) An agent of the donor, unless the power of attorney for health care or other record  
13 prohibits the agent from making an anatomical gift;
- 14 (3) A parent of the donor, if the donor is an unemancipated minor; or
- 15 (4) The donor's guardian.

16 Section 5. (a) A donor may make an anatomical gift:

- 17 (1) By authorizing a statement or symbol indicating that the donor has made an  
18 anatomical gift to be imprinted on the donor's driver's license or identification card;
- 19 (2) In a will;
- 20 (3) During a terminal illness or injury of the donor, by any form of communication  
21 addressed to at least two adults, at least one of whom is a disinterested witness; or
- 22 (4) As provided in subsection (b).

23 (b) A donor or other person authorized to make an anatomical gift under section 4 of this  
24 Act may make a gift by a donor card or other record signed by the donor or other person making

1 the gift or by authorizing that a statement or symbol indicating that the donor has made an  
2 anatomical gift be included on a donor registry. If the donor or other person is physically unable  
3 to sign a record, the record may be signed by another individual at the direction of the donor or  
4 other person and must:

5 (1) Be witnessed by at least two adults, at least one of whom is a disinterested witness,  
6 who have signed at the request of the donor or the other person; and

7 (2) State that it has been signed and witnessed as provided in paragraph (1).

8 (c) Revocation, suspension, expiration, or cancellation of a driver's license or identification  
9 card upon which an anatomical gift is indicated does not invalidate the gift.

10 (d) An anatomical gift made by will takes effect upon the donor's death whether or not the  
11 will is probated. Invalidation of the will after the donor's death does not invalidate the gift.

12 Section 6. (a) Subject to section 8 of this Act, a donor or other person authorized to make  
13 an anatomical gift under section 4 of this Act may amend or revoke an anatomical gift by:

14 (1) A record signed by:

15 (A) The donor;

16 (B) The other person; or

17 (C) Subject to subsection (b), another individual acting at the direction of the  
18 donor or the other person if the donor or other person is physically unable to  
19 sign; or

20 (2) A later-executed document of gift that amends or revokes a previous anatomical gift  
21 or portion of an anatomical gift, either expressly or by inconsistency.

22 (b) A record signed pursuant to subsection (a)(1)(C) must:

23 (1) Be witnessed by at least two adults, at least one of whom is a disinterested witness,

1           who have signed at the request of the donor or the other person; and

2           (2)    State that it has been signed and witnessed as provided in paragraph (1).

3           (c) Subject to section 8 of this Act, a donor or other person authorized to make an  
4 anatomical gift under section 4 of this Act may revoke an anatomical gift by the destruction or  
5 cancellation of the document of gift, or the portion of the document of gift used to make the gift,  
6 with the intent to revoke the gift.

7           (d) A donor may amend or revoke an anatomical gift that was not made in a will by any form  
8 of communication during a terminal illness or injury addressed to at least two adults, at least one  
9 of whom is a disinterested witness.

10          (e) A donor who makes an anatomical gift in a will may amend or revoke the gift in the  
11 manner provided for amendment or revocation of wills or as provided in subsection (a).

12          Section 7. (a) An individual may refuse to make an anatomical gift of the individual's body  
13 or part by:

14          (1)    A record signed by:

15               (A)   The individual; or

16               (B)   Subject to subsection (b), another individual acting at the direction of the  
17 individual if the individual is physically unable to sign;

18          (2)    The individual's will, whether or not the will is admitted to probate or invalidated  
19 after the individual's death; or

20          (3)    Any form of communication made by the individual during the individual's terminal  
21 illness or injury addressed to at least two adults, at least one of whom is a  
22 disinterested witness.

1 (b) A record signed pursuant to subsection (a)(1)(B) must:

2 (1) Be witnessed by at least two adults, at least one of whom is a disinterested witness,  
3 who have signed at the request of the individual; and

4 (2) State that it has been signed and witnessed as provided in paragraph (1).

5 (c) An individual who has made a refusal may amend or revoke the refusal:

6 (1) In the manner provided in subsection (a) for making a refusal;

7 (2) By subsequently making an anatomical gift pursuant to section 5 of this Act that is  
8 inconsistent with the refusal; or

9 (3) By destroying or canceling the record evidencing the refusal, or the portion of the  
10 record used to make the refusal, with the intent to revoke the refusal.

11 (d) Except as otherwise provided in section 8(h) of this Act, in the absence of an express,  
12 contrary indication by the individual set forth in the refusal, an individual's unrevoked refusal  
13 to make an anatomical gift of the individual's body or part bars all other persons from making  
14 an anatomical gift of the individual's body or part.

15 Section 8. (a) Except as otherwise provided in subsection (g) and subject to subsection (f),  
16 in the absence of an express, contrary indication by the donor, a person other than the donor is  
17 barred from making, amending, or revoking an anatomical gift of a donor's body or part if the  
18 donor made an anatomical gift of the donor's body or part under section 5 of this Act or an  
19 amendment to an anatomical gift of the donor's body or part under section 6 of this Act.

20 (b) A donor's revocation of an anatomical gift of the donor's body or part under section 6 of  
21 this Act is not a refusal and does not bar another person specified in section 4 or 9 of this Act  
22 from making an anatomical gift of the donor's body or part under section 5 or 10 of this Act.

1 (c) If a person other than the donor makes an unrevoked anatomical gift of the donor's body  
2 or part under section 5 of this Act or an amendment to an anatomical gift of the donor's body  
3 or part under section 6 of this Act, another person may not make, amend, or revoke the gift of  
4 the donor's body or part under section 10 of this Act.

5 (d) A revocation of an anatomical gift of a donor's body or part under section 6 of this Act  
6 by a person other than the donor does not bar another person from making an anatomical gift  
7 of the body or part under section 5 or 10 of this Act.

8 (e) In the absence of an express, contrary indication by the donor or other person authorized  
9 to make an anatomical gift under section 4 of this Act, an anatomical gift of a part is neither a  
10 refusal to give another part nor a limitation on the making of an anatomical gift of another part  
11 at a later time by the donor or another person.

12 (f) In the absence of an express, contrary indication by the donor or other person authorized  
13 to make an anatomical gift under section 4 of this Act, an anatomical gift of a part for one or  
14 more of the purposes set forth in section 4 of this Act is not a limitation on the making of an  
15 anatomical gift of the part for any of the other purposes by the donor or any other person under  
16 section 5 or 10 of this Act.

17 (g) If a donor who is an unemancipated minor dies, a parent of the donor who is reasonably  
18 available may revoke or amend an anatomical gift of the donor's body or part.

19 (h) If an unemancipated minor who signed a refusal dies, a parent of the minor who is  
20 reasonably available may revoke the minor's refusal.

21 Section 9. (a) Subject to subsections (b) and (c) and unless barred by section 7 or 8 of this  
22 Act, an anatomical gift of a decedent's body or part for purpose of transplantation, therapy,  
23 research, or education may be made by any member of the following classes of persons who is

1 reasonably available, in the order of priority listed:

2 (1) An agent of the decedent at the time of death who could have made an anatomical  
3 gift under section 4(2) of this Act immediately before the decedent's death;

4 (2) The spouse of the decedent;

5 (3) Adult children of the decedent;

6 (4) Parents of the decedent;

7 (5) Adult siblings of the decedent;

8 (6) Adult grandchildren of the decedent;

9 (7) Grandparents of the decedent;

10 (8) An adult who exhibited special care and concern for the decedent;

11 (9) The persons who were acting as the guardians of the person of the decedent at the  
12 time of death; and

13 (10) Any other person having the authority to dispose of the decedent's body.

14 (b) If there is more than one member of a class listed in subsection (a)(1), (3), (4), (5), (6),  
15 (7), or (9) entitled to make an anatomical gift, an anatomical gift may be made by a member of  
16 the class unless that member or a person to which the gift may pass under section 11 of this Act  
17 knows of an objection by another member of the class. If an objection is known, the gift may  
18 be made only by a majority of the members of the class who are reasonably available.

19 (c) A person may not make an anatomical gift if, at the time of the decedent's death, a person  
20 in a prior class under subsection (a) is reasonably available to make or to object to the making  
21 of an anatomical gift.

22 Section 10. (a) A person authorized to make an anatomical gift under section 9 of this Act

1 may make an anatomical gift by a document of gift signed by the person making the gift or by  
2 that person's oral communication that is electronically recorded or is contemporaneously  
3 reduced to a record and signed by the individual receiving the oral communication.

4 (b) Subject to subsection (c), an anatomical gift by a person authorized under section 9 of  
5 this Act may be amended or revoked orally or in a record by any member of a prior class who  
6 is reasonably available. If more than one member of the prior class is reasonably available, the  
7 gift made by a person authorized under section 9 of this Act may be:

8 (1) Amended only if a majority of the reasonably available members agree to the  
9 amending of the gift; or

10 (2) Revoked only if a majority of the reasonably available members agree to the revoking  
11 of the gift or if they are equally divided as to whether to revoke the gift.

12 (c) A revocation under subsection (b) is effective only if, before an incision has been made  
13 to remove a part from the donor's body or before invasive procedures have begun to prepare the  
14 recipient, the procurement organization, transplant hospital, or physician or technician knows  
15 of the revocation.

16 Section 11. (a) An anatomical gift may be made to the following persons named in the  
17 document of gift:

18 (1) A hospital; accredited medical school, dental school, college, or university; organ  
19 procurement organization; or other appropriate person, for research or education;

20 (2) Subject to subsection (b), an individual designated by the person making the  
21 anatomical gift if the individual is the recipient of the part;

22 (3) An eye bank or tissue bank.

23 (b) If an anatomical gift to an individual under subsection (a)(2) cannot be transplanted into

1 the individual, the part passes in accordance with subsection (g) in the absence of an express,  
2 contrary indication by the person making the anatomical gift.

3 (c) If an anatomical gift of one or more specific parts or of all parts is made in a document  
4 of gift that does not name a person described in subsection (a) but identifies the purpose for  
5 which an anatomical gift may be used, the following rules apply:

6 (1) If the part is an eye and the gift is for the purpose of transplantation or therapy, the  
7 gift passes to the appropriate eye bank.

8 (2) If the part is tissue and the gift is for the purpose of transplantation or therapy, the gift  
9 passes to the appropriate tissue bank.

10 (3) If the part is an organ and the gift is for the purpose of transplantation or therapy, the  
11 gift passes to the appropriate organ procurement organization as custodian of the  
12 organ.

13 (4) If the part is an organ, an eye, or tissue and the gift is for the purpose of research or  
14 education, the gift passes to the appropriate procurement organization.

15 (d) For the purpose of subsection (c), if there is more than one purpose of an anatomical gift  
16 set forth in the document of gift but the purposes are not set forth in any priority, the gift must  
17 be used for transplantation or therapy, if suitable. If the gift cannot be used for transplantation  
18 or therapy, the gift may be used for research or education.

19 (e) If an anatomical gift of one or more specific parts is made in a document of gift that does  
20 not name a person described in subsection (a) and does not identify the purpose of the gift, the  
21 gift may be used only for transplantation or therapy, and the gift passes in accordance with  
22 subsection (g).

23 (f) If a document of gift specifies only a general intent to make an anatomical gift by words

1 such as donor, organ donor, or body donor, or by a symbol or statement of similar import, the  
2 gift may be used only for transplantation or therapy, and the gift passes in accordance with  
3 subsection (g).

4 (g) For purposes of subsections (b), (e), and (f) the following rules apply:

5 (1) If the part is an eye, the gift passes to the appropriate eye bank.

6 (2) If the part is tissue, the gift passes to the appropriate tissue bank.

7 (3) If the part is an organ, the gift passes to the appropriate organ procurement  
8 organization as custodian of the organ.

9 (h) An anatomical gift of an organ for transplantation or therapy, other than an anatomical  
10 gift under subsection (a)(2), passes to the organ procurement organization as custodian of the  
11 organ.

12 (i) If an anatomical gift does not pass pursuant to subsections (a) through (h) or the  
13 decedent's body or part is not used for transplantation, therapy, research, or education, custody  
14 of the body or part passes to the person under obligation to dispose of the body or part.

15 (j) A person may not accept an anatomical gift if the person knows that the gift was not  
16 effectively made under section 5 or 10 of this Act or if the person knows that the decedent made  
17 a refusal under section 7 of this Act that was not revoked. For purposes of the subsection, if a  
18 person knows that an anatomical gift was made on a document of gift, the person is deemed to  
19 know of any amendment or revocation of the gift or any refusal to make an anatomical gift on  
20 the same document of gift.

21 (k) Except as otherwise provided in subsection (a)(2), nothing in this Act affects the  
22 allocation of organs for transplantation or therapy.

23 Section 12. (a) The following persons shall make a reasonable search of an individual who

1 the person reasonably believes is dead or near death for a document of gift or other information  
2 identifying the individual as a donor or as an individual who made a refusal:

3 (1) A law enforcement officer, firefighter, paramedic, or other emergency rescuer finding  
4 the individual; and

5 (2) If no other source of the information is immediately available, a hospital, as soon as  
6 practical after the individual's arrival at the hospital.

7 (b) If a document of gift or a refusal to make an anatomical gift is located by the search  
8 required by subsection (a)(1) and the individual or deceased individual to whom it relates is  
9 taken to a hospital, the person responsible for conducting the search shall send the document  
10 of gift or refusal to the hospital.

11 (c) A person is not subject to criminal or civil liability for failing to discharge the duties  
12 imposed by this section.

13 Section 13. (a) A document of gift need not be delivered during the donor's lifetime to be  
14 effective.

15 (b) Upon or after an individual's death, a person in possession of a document of gift or a  
16 refusal to make an anatomical gift with respect to the individual shall allow examination and  
17 copying of the document of gift or refusal by a person authorized to make or object to the  
18 making of an anatomical gift with respect to the individual or by a person to which the gift could  
19 pass under section 11 of this Act.

20 Section 14. (a) When a hospital refers an individual at or near death to a procurement  
21 organization, the organization shall make a reasonable search of the records of the Department  
22 of Public Safety and any donor registry that it knows exists for the geographical area in which  
23 the individual resides to ascertain whether the individual has made an anatomical gift.

1 (b) A procurement organization must be allowed reasonable access to information in the  
2 records of the Department of Public Safety to ascertain whether an individual at or near death  
3 is a donor.

4 (c) When a hospital refers an individual at or near death to a procurement organization, the  
5 organization may conduct any reasonable examination necessary to ensure the medical  
6 suitability of a part that is or could be the subject of an anatomical gift for transplantation,  
7 therapy, research, or education from a donor or a prospective donor. During the examination  
8 period, measures necessary to ensure the medical suitability of the part may not be withdrawn  
9 unless the hospital or procurement organization knows that the individual expressed a contrary  
10 intent.

11 (d) Unless prohibited by law other than this Act, at any time after a donor's death, the person  
12 to which a part passes under section 11 of this Act may conduct any reasonable examination  
13 necessary to ensure the medical suitability of the body or part for its intended purpose.

14 (e) Unless prohibited by law other than this Act, an examination under subsection (c) or (d)  
15 may include an examination of all medical and dental records of the donor or prospective donor.

16 (f) Upon the death of a minor who was a donor or had signed a refusal, unless a procurement  
17 organization knows the minor is emancipated, the procurement organization shall conduct a  
18 reasonable search for the parents of the minor and provide the parents with an opportunity to  
19 revoke or amend the anatomical gift or revoke the refusal.

20 (g) Upon referral by a hospital under subsection (a), a procurement organization shall make  
21 a reasonable search for any person listed in section 9 of this Act having priority to make an  
22 anatomical gift on behalf of a prospective donor. If a procurement organization receives  
23 information that an anatomical gift to any other person was made, amended, or revoked, it shall

1 promptly advise the other person of all relevant information.

2 (h) Subject to sections 11(i) and 23 of this Act, the rights of the person to which a part  
3 passes under section 11 of this Act are superior to the rights of all others with respect to the part.  
4 The person may accept or reject an anatomical gift in whole or in part. Subject to the terms of  
5 the document of gift and this Act, a person that accepts an anatomical gift of an entire body may  
6 allow embalming, burial or cremation, and use of remains in a funeral service. If the gift is of  
7 a part, the person to which the part passes under section 11 of this Act, upon the death of the  
8 donor and before embalming, burial, or cremation, shall cause the part to be removed without  
9 unnecessary mutilation.

10 (i) Neither the physician who attends the decedent at death nor the physician who determines  
11 the time of the decedent's death may participate in the procedures for removing or transplanting  
12 a part from the decedent.

13 (j) A physician or technician may remove a donated part from the body of a donor that the  
14 physician or technician is qualified to remove.

15 Section 15. Each hospital in this state shall enter into agreements or affiliations with  
16 procurement organizations for coordination of procurement and use of anatomical gifts.

17 Section 16. (a) Except as otherwise provided in subsection (b), a person that for valuable  
18 consideration, knowingly purchases or sells a part for transplantation or therapy if removal of  
19 a part from an individual is intended to occur after the individual's death commits a Class 5  
20 felony.

21 (b) A person may charge a reasonable amount for the removal, processing, preservation,  
22 quality control, storage, transportation, implantation, or disposal of a part.

23 Section 17. A person that, in order to obtain a financial gain, intentionally falsifies, forges,

1 conceals, defaces, or obliterates a document of gift, an amendment or revocation of a document  
2 of gift, or a refusal commits a Class 5 felony.

3 Section 18. (a) A person that acts in accordance with this Act or with the applicable  
4 anatomical gift law of another state, or attempts in good faith to do so, is not liable for the act  
5 in a civil action, criminal prosecution, or administrative proceeding.

6 (b) Neither the person making an anatomical gift nor the donor's estate is liable for any  
7 injury or damage that results from the making or use of the gift.

8 (c) In determining whether an anatomical gift has been made, amended, or revoked under  
9 this Act, a person may rely upon representations of an individual listed in section 9(a)(2), (3),  
10 (4), (5), (6), (7), or (8) of this Act relating to the individual's relationship to the donor or  
11 prospective donor unless the person knows that the representation is untrue.

12 Section 19. (a) A document of gift is valid if executed in accordance with:

13 (1) This Act;

14 (2) The laws of the state or country where it was executed; or

15 (3) The laws of the state or country where the person making the anatomical gift was  
16 domiciled, has a place of residence, or was a national at the time the document of gift  
17 was executed.

18 (b) If a document of gift is valid under this section, the law of this state governs the  
19 interpretation of the document of gift.

20 (c) A person may presume that a document of gift or amendment of an anatomical gift is  
21 valid unless that person knows that it was not validly executed or was revoked.

22 Section 20. (a) The Department of Public Safety may establish or contract for the

1 establishment of a donor registry.

2 (b) The Department of Public Safety shall cooperate with a person that administers any  
3 donor registry that this state establishes, contracts for, or recognizes for the purpose of  
4 transferring to the donor registry all relevant information regarding a donor's making,  
5 amendment to, or revocation of an anatomical gift.

6 (c) A donor registry must:

7 (1) Allow a donor or other person authorized under section 4 of this Act to include on  
8 the donor registry a statement or symbol that the donor has made, amended, or  
9 revoked an anatomical gift;

10 (2) Be accessible to a procurement organization to allow it to obtain relevant information  
11 on the donor registry to determine, at or near death of the donor or a prospective  
12 donor, whether the donor or prospective donor has made, amended, or revoked an  
13 anatomical gift; and

14 (3) Be accessible for purposes of paragraph (2) seven days a week on a twenty-four hour  
15 basis.

16 (d) Personally identifiable information on a donor registry about a donor or prospective  
17 donor may not be used or disclosed without the express consent of the donor, prospective donor,  
18 or person that made the anatomical gift for any purpose other than to determine, at or near death  
19 of the donor or prospective donor, whether the donor or prospective donor has made, amended,  
20 or revoked an anatomical gift.

21 (e) This section does not prohibit any person from creating or maintaining a donor registry  
22 that is not established by or under contract with the state. Any such registry must comply with  
23 subsections (c) and (d).

1 Section 21. (a) In this section:

2 (1) "Advance health care directive" means a power of attorney for health care or a record  
3 signed by a prospective donor containing the prospective donor's direction  
4 concerning a health care decision for the prospective donor.

5 (2) "Declaration" means a record signed by a prospective donor specifying the  
6 circumstances under which a life support system may be withheld or withdrawn from  
7 the prospective donor.

8 (3) "Health care decision" means any decision made regarding the health care of the  
9 prospective donor.

10 (b) If a prospective donor has a declaration or advance health care directive, measures  
11 necessary to ensure the medical suitability of an organ for transplantation or therapy may not  
12 be withheld or withdrawn from the prospective donor, unless the declaration expressly provides  
13 to the contrary.

14 Section 22. (a) A coroner shall cooperate with procurement organizations to maximize the  
15 opportunity to recover anatomical gifts for the purpose of transplantation, therapy, research, or  
16 education.

17 (b) If a coroner receives notice from a procurement organization that an anatomical gift  
18 might be available or was made with respect to a decedent whose body is under the jurisdiction  
19 of the coroner and a post-mortem examination is going to be performed, unless the coroner  
20 denies recovery in accordance with section 23 of this Act, the coroner or designee shall conduct  
21 a post-mortem examination of the body or the part in a manner and within a period compatible  
22 with its preservation for the purposes of the gift.

23 (c) A part may not be removed from the body of a decedent under the jurisdiction of a

1 coroner for transplantation, therapy, research, or education unless the part is the subject of an  
2 anatomical gift. The body of a decedent under the jurisdiction of the coroner may not be  
3 delivered to a person for research or education unless the body is the subject of an anatomical  
4 gift. This subsection does not preclude a coroner from performing the medicolegal investigation  
5 upon the body or parts of a decedent under the jurisdiction of the coroner.

6 Section 23. (a) Upon request of a procurement organization, a coroner shall release to the  
7 procurement organization the name, contact information, and available medical and social  
8 history of a decedent whose body is under the jurisdiction of the coroner. If the decedent's body  
9 or part is medically suitable for transplantation, therapy, research, or education, the coroner shall  
10 release post-mortem examination results to the procurement organization. The procurement  
11 organization may make a subsequent disclosure of the post-mortem examination results or other  
12 information received from the coroner only if relevant to transplantation or therapy.

13 (b) The coroner may conduct a medicolegal examination by reviewing all medical records,  
14 laboratory test results, X rays, other diagnostic results, and other information that any person  
15 possesses about a donor or prospective donor whose body is under the jurisdiction of the  
16 coroner which the coroner determines may be relevant to the investigation.

17 (c) A person that has any information requested by a coroner pursuant to subsection (b) shall  
18 provide that information as expeditiously as possible to allow the coroner to conduct the  
19 medicolegal investigation within a period compatible with the preservation of parts for the  
20 purpose of transplantation, therapy, research, or education.

21 (d) If an anatomical gift has been or might be made of a part of a decedent whose body is  
22 under the jurisdiction of the coroner and a post-mortem examination is not required, or the  
23 coroner determines that a post-mortem examination is required but that the recovery of the part

1 that is the subject of an anatomical gift will not interfere with the examination, the coroner and  
2 procurement organization shall cooperate in the timely removal of the part from the decedent  
3 for the purpose of transplantation, therapy, research, or education.

4 (e) If an anatomical gift of a part from the decedent under the jurisdiction of the coroner has  
5 been or might be made, but the coroner initially believes that the recovery of the part could  
6 interfere with the post-mortem investigation into the decedent's cause or manner of death, the  
7 coroner shall consult with the procurement organization or physician or technician designated  
8 by the procurement organization about the proposed recovery. After consultation, the coroner  
9 may allow the recovery.

10 (f) Following the consultation under subsection (e), in the absence of mutually agreed upon  
11 protocols to resolve conflict between the coroner and the procurement organization, if the  
12 coroner intends to deny recovery of an organ for transplanation, the coroner or designee, at the  
13 request of the procurement organization, shall attend the removal procedure for the part before  
14 making a final determination not to allow the procurement organization to recover the part.  
15 During the removal procedure, the coroner or designee may allow recovery by the procurement  
16 organization to proceed, or, if the coroner or designee reasonably believes that the part may be  
17 involved in determining the decedent's cause or manner of death, deny recovery by the  
18 procurement organization.

19 (g) If the coroner or designee denies recovery under subsection (f), the coroner or designee  
20 shall:

- 21 (1) Explain in a record the specific reasons for not allowing recovery of the part;
- 22 (2) Include the specific reasons in the records of the coroner; and
- 23 (3) Provide a record with the specific reasons to the procurement organization.

1 (h) If the coroner or designee allows recovery of a part under subsection (d), (e), or (f), the  
2 procurement organization, upon request, shall cause the physician or technician who removes  
3 the part to provide the coroner with a record describing the condition of the part, a biopsy, a  
4 photograph, and any other information and observations that would assist in the post-mortem  
5 examination.

6 (i) If a coroner or designee is required to be present at a removal procedure under subsection  
7 (f), upon request the procurement organization requesting the recovery of the part shall  
8 reimburse the coroner or designee for the additional costs incurred in complying with subsection  
9 (f).

10 Section 24. In applying and construing this uniform act, consideration must be given to the  
11 need to promote uniformity of the law with respect to its subject matter among states that enact  
12 it.

13 Section 25. This Act modifies, limits, and supersedes the Electronic Signatures in Global  
14 and National Commerce Act, 15 U.S.C. section 7001 et seq., but does not modify, limit or  
15 supersede section 101(a) of that act, 15 U.S.C. section 7001, or authorize electronic delivery of  
16 any of the notices described in section 103(b) of that act, 15 U.S.C. section 7003(b).

17 Section 26. That §§ 34-26-20, 34-26-21, and 34-26-22 to 34-26-46, inclusive, be repealed.

18

# State of South Dakota

EIGHTY-SECOND SESSION  
LEGISLATIVE ASSEMBLY, 2007

970N0652

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **SB 198** - 02/26/2007

Introduced by: Senators Gant, Apa, Heidepriem, McCracken, Schmidt (Dennis), and Smidt (Orville) and Representatives Willadsen, DeVries, Novstrup (Al), and Weems

1 FOR AN ACT ENTITLED, An Act to provide for an Open Government Commission and the  
2 study of open government issues.

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

4 Section 1. The Executive Board of the Legislative Research Council shall establish an Open  
5 Government Commission during the 2007 legislative interim. The commission shall consist of  
6 six members. Three members, no more than two from one political party, shall be state senators  
7 selected by the president pro tempore of the Senate. Three members, no more than two from one  
8 political party, shall be state representatives selected by the speaker of the House of  
9 Representatives.

10 Section 2. The Open Government Commission shall carefully examine the report of the  
11 Attorney General. Moreover, the commission may, at its discretion, examine any school district,  
12 city, county, and state government entities and their actions, and shall specifically address which  
13 matters should be open to the public and which should not.

14 Section 3. The Open Government Commission shall embody its recommendations for  
15 amendment in draft legislation and submit its recommendations to the Executive Board no later



1 than the Executive Board's final interim meeting.

2 Section 4. That section 1 of chapter 11 of the 2006 Session Laws be amended to read as  
3 follows:

4 Section 1. The attorney general is hereby directed to study open government issues in South  
5 Dakota. The study shall address school district, city, county, and state government entities and  
6 their actions, and shall specifically address which matters are open to the public and which are  
7 not. The attorney general shall report findings and recommendations to the executive board of  
8 the Legislative Research Council by ~~June 30, 2007~~ September 1, 2007.

9 Section 5. The provisions of this Act are repealed on January 1, 2008.

# State of South Dakota

EIGHTY-SECOND SESSION  
LEGISLATIVE ASSEMBLY, 2007

770N0098

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **SJR 9** - 02/23/2007

Introduced by: Senators Gray, Hunhoff, Koetzle, Olson (Ed), and Peterson (Jim) and Representatives Heineman, Dennert, Pederson (Gordon), and Putnam at the request of the Constitutional Revision Commission

1 A JOINT RESOLUTION, To propose a constitutional amendment to provide for forty-day  
2 legislative sessions.

3 BE IT RESOLVED BY THE SENATE OF THE STATE OF SOUTH DAKOTA, THE HOUSE  
4 OF REPRESENTATIVES CONCURRING THEREIN:

5 Section 1. That at the next general election held in the state, the following amendment to  
6 Article III, section 6 of the Constitution of the State of South Dakota, as set forth in section 2  
7 of this Joint Resolution, which is hereby agreed to, shall be submitted to the electors of the state  
8 for approval.

9 Section 2. That Article III, section 6 of the Constitution of the State of South Dakota, be  
10 amended to read as follows:

11 § 6. The terms of office of the members of the Legislature shall be two years; they shall  
12 receive for their services the salary fixed by law under the provisions of § 2 of article XXI of  
13 this Constitution, and five cents for every mile of necessary travel in going to and returning from  
14 the place of meeting of the Legislature on the most usual route.



1 No person may serve more than four consecutive terms or a total of eight consecutive years  
2 in the senate and more than four consecutive terms or a total of eight consecutive years in the  
3 house of representatives. However, this restriction does not apply to partial terms to which a  
4 legislator may be appointed or to legislative service before January 1, 1993.

5 A regular session of the Legislature shall be held in each ~~odd-numbered~~ year and shall not  
6 exceed forty legislative days, excluding Sundays, holidays and legislative recess, except in cases  
7 of impeachment, and members of the Legislature shall receive no other pay or perquisites except  
8 salary and mileage.

9 ~~A regular session of the Legislature shall be held in each even-numbered year beginning~~  
10 ~~with the year 1964 and shall not exceed thirty-five legislative days, excluding Sundays, holidays~~  
11 ~~and legislative recess, except in cases of impeachment, and members of the Legislature shall~~  
12 ~~receive no other pay or perquisites except salary and mileage.~~