

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

436P0360

HOUSE APPROPRIATIONS ENGROSSED NO. **HB 1129** - 1/31/2008

Introduced by: Representatives Cutler, Deadrick, Engels, Feinstein, Gillespie, Hunt, and Lust
and Senators Heidepriem, Knudson, and Turbak Berry

1 FOR AN ACT ENTITLED, An Act to establish the Commission on Equal Access to Our Courts
2 and to make an appropriation therefor.

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

4 Section 1. There is hereby created the Commission on Equal Access to Our Courts. The
5 commission shall consist of seven members appointed as follows:

6 (1) Three members by the Governor, one initially appointed for a term of one year, one
7 initially appointed for a term of two years, and one for a term of three years, as
8 designated by the Governor. The Governor shall appoint members who are not
9 lawyers;

10 (2) Two members appointed by the Chief Justice of the Supreme Court, one initially
11 appointed for a term of two years and one for a term of three years, as designated by
12 the Chief Justice. The Chief Justice shall appoint members who are judges or
13 lawyers;

14 (3) Two members appointed by the president of the State Bar of South Dakota, one



1 initially appointed for a term of one year and one for a term of three years, as
2 designated by the president. The president shall appoint members who are lawyers.

3 Thereafter, each appointment shall be for a term of three years, beginning on the first day
4 of July. The commission members shall serve without compensation.

5 Section 2. The Commission on Equal Access to Our Courts shall provide grants to nonprofit
6 entities that are funded, or nonprofit entities contracting with nonprofit entities that are funded,
7 by the Legal Services Corporation and deliver legal services to persons meeting income
8 eligibility guidelines.

9 Section 3. Any order settling a class action lawsuit that results in the creation of a common
10 fund for the benefit of the class shall provide for the distribution of any residual funds to the
11 Commission on Equal Access to Our Courts. However, up to fifty percent of the residual funds
12 may be distributed to one or more other nonprofit charitable organizations that serve the public
13 good if the court finds there is good cause to approve such a distribution as part of the
14 settlement. For the purposes of this section, residual funds are any funds left over after payment
15 of class member claims, attorney fees and costs, and any reversions to a defendant agreed upon
16 by the parties and approved by the court. This section does not apply to any class action lawsuit
17 against the State of South Dakota or any of its political subdivisions.

18 Section 4. There is hereby appropriated from the general fund the sum of five thousand
19 dollars (\$5,000), or so much thereof as may be necessary, to the Commission on Equal Access
20 to Our Courts as established by this Act.

21 Section 5. The chair of the Commission on Equal Access to Our Courts shall approve
22 vouchers and the state auditor shall draw warrants to pay expenditures authorized by this Act.

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

319P0547

HOUSE JUDICIARY ENGROSSED NO. **HB 1163** - 1/30/2008

Introduced by: Representatives Cutler, Feinstein, Lucas, Rave, and Willadsen and Senators Gray, Hunhoff, Jerstad, Koetzle, and Turbak Berry

1 FOR AN ACT ENTITLED, An Act to increase the duration of juvenile diversion programs.

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

3 Section 1. That § 26-7A-11 be amended to read as follows:

4 26-7A-11. A report of a preliminary investigation involving an apparent child in need of
5 supervision or an apparent delinquent child may be referred under § 26-7A-10 only if:

6 (1) The child and the child's parents, guardian, or other custodian were informed of their
7 constitutional and legal rights, including being represented by an attorney at every
8 stage of the proceedings if a petition is filed;

9 (2) The facts are admitted and establish prima facie jurisdiction; and

10 (3) Written consent is obtained from the child's parents, guardian, or custodian and from
11 the child if the child is of sufficient age and understanding. Efforts to effect informal
12 adjustment may extend no longer than ~~three~~ six months from the date of such
13 consent.



State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

472P0186

HOUSE JUDICIARY ENGROSSED NO. **HB 1238** 1/30/2008

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

Introduced by: Representatives Gillespie, Burg, Cutler, Deadrick, Dennert, Dykstra, Elliott, Engels, Feinstein, Gassman, Glenski, Halverson, Hargens, Krebs, Lucas, Miles, Nygaard, Peters, Rhoden, Sigdestad, Street, and Thompson and Senators Hanson (Gary), Abdallah, Albers, Apa, Heidepriem, and Olson (Ed)

1 FOR AN ACT ENTITLED, An Act to revise the limitation period for commencing child abuse
2 prosecutions.

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

4 Section 1. That § 26-10-1 be amended to read as follows:

5 26-10-1. Any person who abuses, exposes, tortures, torments, or cruelly punishes a minor
6 in a manner which does not constitute aggravated assault, is guilty of a Class 4 felony. If the
7 victim is less than seven years of age, the person is guilty of a Class 3 felony. The use of
8 reasonable force, as provided in § 22-18-5, is a defense to an offense under this section.
9 Notwithstanding § 23A-42-2, a charge brought pursuant to this section may be commenced at
10 any time before the victim becomes age twenty-five.

11 If any person convicted of this offense is the minor's parent, guardian, or custodian, the court
12 shall include as part of the sentence, or conditions required as part of suspended execution or
13 imposition of such sentence, that the person receive instruction on parenting approved or



1 provided by the Department of Social Services.

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

525P0161

HOUSE STATE AFFAIRS

ENGROSSED NO. **HB 1247** - 1/31/2008

Introduced by: Representatives Dykstra, Brunner, Cutler, Deadrick, Faehn, Halverson, Hargens, Krebs, Noem, Nygaard, Pitts, Putnam, Rausch, Rave, Rhoden, Street, Tidemann, and Vanneman and Senators Knudson, Albers, Dempster, Gray, Hansen (Tom), Hanson (Gary), Hauge, and Peterson (Jim)

1 FOR AN ACT ENTITLED, An Act to prohibit certain contract restrictions on the sale of
2 renewable motor fuels by retailers.

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

4 Section 1. That chapter 37-2 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Terms used in this Act mean:

- 7 (1) "Franchise-related document," a franchise agreement, branded jobber contract,
8 branded marketer agreement, and any other contract or directive of a franchisor
9 relating to terms or conditions of the sale of fuel by a franchisee or customer;
- 10 (2) "Renewable fuel," biodiesel, biodiesel blend, ethyl alcohol, ethanol blend, and E-85,
11 all as defined in § 10-47B-3.

12 Section 2. That chapter 37-2 be amended by adding thereto a NEW SECTION to read as
13 follows:



1 No franchise-related document entered into or renewed on or after the effective date of this
2 Act may contain any provision allowing a franchisor to restrict the franchisee or any affiliate of
3 the franchisee from:

4 (1) Installing on the marketing premises of the franchisee a renewable fuel pump or tank,
5 except that the franchisee's franchisor may restrict the installation of a tank on leased
6 marketing premises of the franchisor;

7 (2) Converting an existing tank or pump on the marketing premises of the franchisee for
8 renewable fuel use;

9 (3) Advertising the sale of any renewable fuel, including through the use of signage;

10 (4) Selling renewable fuel in any specified area on the marketing premises of the
11 franchisee, including any area in which a name or logo of a franchisor or any other
12 entity appears;

13 (5) Purchasing renewable fuel from sources other than the franchisor if the franchisor
14 does not offer its own renewable fuel for sale by the franchisee;

15 (6) Listing renewable fuel availability or prices, including on service station signs, fuel
16 dispensers, or light poles; or

17 (7) Allowing for payment of renewable fuel with any form of payment available for any
18 other type of fuel.

19 Nothing in this section authorizes any activity that constitutes mislabeling, misbranding,
20 willful adulteration, or other trademark violations by the franchisee.

21 Section 3. That chapter 37-2 be amended by adding thereto a NEW SECTION to read as
22 follows:

23 Nothing in this Act precludes a franchisor from requiring the franchisee to obtain reasonable
24 indemnification and insurance policies.

1 Section 4. That chapter 37-2 be amended by adding thereto a NEW SECTION to read as
2 follows:

3 No franchise-related document that requires that three grades of gasoline be sold by the
4 applicable franchisee may prevent the franchisee from selling a renewable fuel in lieu of one,
5 and only one, grade of gasoline.

6 Section 5. That chapter 37-2 be amended by adding thereto a NEW SECTION to read as
7 follows:

8 Any franchisor found guilty of violating the provisions of sections 2 or 4 of this Act is guilty
9 of a Class 1 misdemeanor.

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

923P0179

HOUSE STATE AFFAIRS

ENGROSSED NO. **HB 1250** - 1/30/2008

Introduced by: Representatives Lucas, Bradford, Elliott, Gassman, Halverson, Nelson, Rave, Street, Van Etten, Van Norman, and Weems and Senators Koetzle, McCracken, Olson (Ed), and Two Bulls

1 FOR AN ACT ENTITLED, An Act to increase the salary for legislators.

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

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

4 2-4-2. The salary of each member of the Legislature is ~~six~~ ten thousand dollars for ~~every~~
5 each regular legislative session. In addition, each legislator shall receive:

6 (1) Reimbursement to be paid after the legislative session for actual mileage or its
7 equivalent traveled to and from home not more than once each weekend or between
8 days of recess during the regular legislative session, at state rates established by the
9 Board of Finance;

10 (2) Expenses of one hundred ten dollars per day for each day of a regular or special
11 legislative session as prepaid reimbursement for living expenses, including meals and
12 lodging, laundry, cleaning and pressing of clothing, and all other uncompensated
13 expenses as defined in § 2-4-2.1 incident to the performance of legislative services;
14 and



1 (3) Five cents once each session for every mile of necessary travel in going to and
2 returning from the place of meeting of the Legislature by the most usual route.

3 For each day's attendance at special sessions, each member, in addition to mileage and
4 expenses, shall receive a per diem calculated by the director of the Legislative Research Council
5 equal to the normal daily compensation for the regular session immediately preceding the
6 special session.

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

157P0567

HOUSE STATE AFFAIRS

ENGROSSED NO. **HB 1258** - 1/31/2008

Introduced by: Representatives Gassman, Ahlers, Bradford, Brunner, Burg, Carson, DeVries, Elliott, Engels, Feinstein, Gosch, Halverson, Hills, Hunt, Jerke, Kirkeby, Koistinen, Lucas, Moore, Nelson, Noem, Nygaard, Olson (Betty), Olson (Ryan), Pederson (Gordon), Rausch, Rounds, Sigdestad, Steele, Thompson, and Van Etten and Senators Bartling, Abdallah, Albers, Garnos, Greenfield, Hanson (Gary), Jerstad, Katus, Maher, McCracken, McNenny, Peterson (Jim), Smidt (Orville), Sutton, and Turbak Berry

1 FOR AN ACT ENTITLED, An Act to require that certain gift certificates conspicuously
2 disclose information regarding fees and expiration dates.

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

4 Section 1. For the purposes of this Act, a gift certificate is a tangible record evidencing a
5 promise, made for consideration, by the seller or issuer of the record that goods or services will
6 be provided to the owner of the record to the value shown in the record and includes a gift card,
7 stored-value card, store card, or a similar record or card that contains a microprocessor chip,
8 magnetic stripe, or other means for the storage of information, and for which the value is
9 decreased upon each use.

10 Section 2. Any gift certificate subject to a fee shall contain a statement clearly and
11 conspicuously printed on the gift certificate or on a separate form stating there is a fee, the
12 amount of the fee, how often the fee will occur, how the fee is triggered, and when the fee will



1 be assessed. If the statement is on the gift certificate, the statement shall appear on the front in
2 a location that is visible to a purchaser prior to the purchase.

3 Section 3. Any gift certificate subject to an expiration date shall contain a statement clearly
4 and conspicuously printed on the gift certificate stating the expiration date. The statement shall
5 appear on the front in a location that is visible to a purchaser prior to the purchase.

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

680P0614

HOUSE TRANSPORTATION ENGROSSED NO. **HB** **1264** - 1/29/2008

Introduced by: Representatives Jerke, Elliott, Faehn, Howie, Kirkeby, Lust, Miles, Moore, Olson (Betty), and Sigdestad and Senators Napoli, Albers, Garnos, Hauge, McCracken, and Sutton

1 FOR AN ACT ENTITLED, An Act to permit certain persons with insulin-treated diabetes
2 mellitus to get an endorsement on a commercial driver license to drive a school bus.

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

4 Section 1. That chapter 32-12A be amended by adding thereto a NEW SECTION to read
5 as follows:

6 Any person with insulin-treated diabetes mellitus, who is otherwise medically qualified
7 under the physical examination standards of the federal motor carrier safety regulations, as
8 provided by § 32-12A-24, may request a waiver for this condition from the department. If an
9 applicant for an intrastate school bus endorsement meets the requirements as specified in
10 subdivisions (1) to (7), inclusive, of this section, the department shall grant a waiver. The
11 department shall notify each applicant and each affected school district or private contractor of
12 its determination of eligibility for each application for a waiver. An applicant shall:

13 (1) Provide evidence, signed by a physician, physician assistant, or nurse practitioner that



1 the applicant has no other disqualifying conditions including diabetes-related
2 complications;

3 (2) Provide evidence, signed by a physician, physician assistant, or nurse practitioner that
4 the applicant has had no recurrent severe hypoglycemic episodes resulting in a loss
5 of consciousness or any severe hypoglycemic episode within the past five years. A
6 period of one year of demonstrated stability is required following the first episode of
7 hypoglycemia;

8 (3) Provide evidence, signed by a physician, physician assistant, or nurse practitioner that
9 the applicant has had no recurrent severe hypoglycemic episodes requiring the
10 assistance of another person within the past five years. A period of one year of
11 demonstrated stability is required following the first episode of hypoglycemia;

12 (4) Provide evidence, signed by a physician, physician assistant, or nurse practitioner that
13 the applicant has had no recurrent severe hypoglycemic episodes resulting in
14 impaired cognitive functioning that occurred without warning symptoms within the
15 past five years. A period of one year of demonstrated stability is required following
16 the first episode of hypoglycemia;

17 (5) Document that the applicant has been examined by a board-certified or board-eligible
18 physician, a physician assistant, or a nurse practitioner who has conducted a complete
19 medical examination. The complete medical examination shall consist of a
20 comprehensive evaluation of the applicant's medical history and current status with
21 a report including the following information:

- 22 (a) The date insulin use began;
- 23 (b) Diabetes diagnosis and disease history;
- 24 (c) Hospitalization records, if any;

- 1 (d) Consultation notes for diagnostic examinations;
- 2 (e) Special studies pertaining to the diabetes;
- 3 (f) Follow-up reports;
- 4 (g) Reports of any severe hypoglycemic episode within the last five years;
- 5 (h) Two measures of glycosylated hemoglobin, the first ninety days before the last
- 6 and current measure;
- 7 (i) Insulin dosages and types, diet utilized for control and any significant factors
- 8 such as smoking, alcohol use, and any other medications or drugs taken; and
- 9 (j) Examinations to detect any peripheral neuropathy or circulatory insufficiency
- 10 of the extremities;
- 11 (6) Submit a signed statement from an examining physician indicating the following
- 12 medical determinations:
 - 13 (a) The physician is familiar with the applicant's medical history for the past five
 - 14 years, either through actual treatment over that time or through consultation
 - 15 with a physician who has treated the applicant through that time;
 - 16 (b) The applicant has been educated in diabetes and its management, thoroughly
 - 17 informed of and understands the procedures that must be followed to monitor
 - 18 and manage the applicant's diabetes and the procedures to be followed if
 - 19 complications arise; and
 - 20 (c) The applicants has the ability and has demonstrated the willingness to properly
 - 21 monitor and manage the applicant's diabetes; and
- 22 (7) Submit a separate signed statement from an ophthalmologist or optometrist that the
- 23 applicant has been examined and does not have diabetic retinopathy and meets the
- 24 vision standards in 49 CFR 391.41 (b)(10), as amended through January 1, 2007, or

1 has been issued a valid medical exemption. If the applicant has any evidence of
2 diabetic retinopathy, the applicant shall be examined by an ophthalmologist and
3 submit a signed statement from the ophthalmologist that the applicant does not have
4 unstable advancing disease of blood vessels in the retina, known as unstable
5 proliferative diabetic retinopathy.

6 Each school bus driver that is granted a waiver for insulin-treated diabetes mellitus issued
7 by the department shall maintain the waiver in the driver's possession at all times.

8 The department shall promulgate rules, pursuant to chapter 1-26, necessary for the
9 determination of eligibility and issuance of a waiver to persons with insulin-treated diabetes
10 mellitus in accordance with the provisions of this section.

11 A waiver granted under this section may be issued for a maximum of two years. The driver
12 may reapply for renewal of the waiver every two years.

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

293P0689

HOUSE APPROPRIATIONS ENGROSSED NO. **HB 1276** - 1/31/2008

Introduced by: The Committee on Appropriations at the request of the Office of the
Governor

1 FOR AN ACT ENTITLED, An Act to make an appropriation to fund tax refunds for elderly
2 persons and persons with a disability of property tax and sales tax.

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

4 Section 1. There is hereby appropriated from the general fund the sum of eight hundred
5 thousand dollars (\$800,000), or so much thereof as may be necessary, to the Department of
6 Revenue and Regulation to provide refunds for real property tax and sales tax to elderly persons
7 and persons with a disability pursuant to chapters 10-18A and 10-45A. An amount not to exceed
8 twenty thousand dollars in fiscal year 2009 may be used for the administrative costs of this Act.

9 Section 2. The secretary of revenue and regulation shall approve vouchers and the state
10 auditor shall draw warrants to pay expenditures authorized by this Act.

11 Section 3. Any amounts appropriated in this Act not lawfully expended or obligated by June
12 30, 2009, shall revert in accordance with the procedures prescribed in chapter 4-8.



State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

924P0712

HOUSE TRANSPORTATION ENGROSSED NO. **HB 1315** - 1/31/2008

Introduced by: Representatives Krebs, Ahlers, Hills, and Pederson (Gordon) and Senators Napoli, Hauge, and Sutton

1 FOR AN ACT ENTITLED, An Act to create a Highway Finance Task Force to study highway
2 needs and financing.

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

4 Section 1. There is hereby established the Highway Finance Task Force. The task force shall
5 consist of the following fifteen members:

6 (1) The speaker of the House of Representatives shall appoint four members of the
7 House of Representatives, no more than two of whom may be from one political
8 party;

9 (2) The president pro tempore of the Senate shall appoint four members of the Senate,
10 no more than two of whom may be from one political party;

11 (3) The Governor shall appoint one representative from the Department of
12 Transportation;

13 (4) The Governor shall appoint one representative from the Bureau of Finance and
14 Management;



- 1 (5) The Governor shall appoint one representative from the Associated General
2 Contractors of South Dakota;
- 3 (6) The Governor shall appoint one representative from the South Dakota Highway
4 Users Conference;
- 5 (7) The Governor shall appoint one representative from the South Dakota Municipal
6 League;
- 7 (8) The Governor shall appoint one representative from the South Dakota Association
8 of County Commissioners; and
- 9 (9) The Governor shall appoint one representative from the South Dakota Association
10 of Towns and Townships.

11 Section 2. The Highway Finance Task Force shall study the overall availability and
12 distribution of highway funding sources between state and local government entities. The task
13 force shall also study following issues:

- 14 (1) Projected long term state and local highway needs;
- 15 (2) Allocation and distribution of responsibility for all highway segments within the
16 state;
- 17 (3) Future state and local highway cost projections compared to projected revenue;
- 18 (4) The sustainability of current sources of the state highway fund;
- 19 (5) Alternative sources of highway funding revenue;
- 20 (6) Strategies for creating greater efficiency in financing state and local highways; and
- 21 (7) Strategies to promote the development of innovative ideas aimed at reducing
22 highway funding needs.

23 Section 3. The initial appointments shall be made no later than August 1, 2008. If there is
24 a vacancy on the task force, the vacancy shall be filled in the same manner as the original

1 appointment.

2 Section 4. The task force shall be under the supervision of the Executive Board of the
3 Legislative Research Council and staffed and funded as an interim legislative committee. The
4 Executive Board shall appoint the chair and the vice chair from among the legislators appointed
5 to the task force.

6 Section 5. The task force shall evaluate the issues identified in section 2 of this Act and
7 make recommendations on strategies and financing to meet the state and local highway needs.
8 Based on these recommendations, the task force shall submit its recommendations and draft
9 legislation to the Executive Board of the Legislative Research Council no later than
10 November 1, 2009, and to the Governor and the Legislature no later than December 15, 2009.

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

400P0149

SENATE ENGROSSED NO. **SB 2** - 1/16/2008

Introduced by: The Committee on Local Government at the request of the Office of the
Secretary of State

1 FOR AN ACT ENTITLED, An Act to prohibit public access to birth dates of voters contained
2 in the master voter registration file.

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

4 Section 1. That § 12-4-9 be amended to read as follows:

5 12-4-9. The county auditor shall maintain and safeguard a file of voters in computer format
6 that contains each person registered in each voting precinct within the county. This file shall be
7 known as the master registration file and shall be, at all times during office hours, open to public
8 inspection. However, public access to social security numbers and driver license numbers
9 contained in the master registration file shall be ~~restricted~~ prohibited. Public access to each
10 voter's day and month of birth shall be restricted. Public access to the voter's year of birth is not
11 restricted. The master registration file shall contain all information from each voter's registration
12 card except the description of the location of the voter's residence. The master registration file
13 shall also include the date of the last election the voter has voted in and when the voter's
14 information was last updated. The master registration file may also contain additional voter
15 history information.



State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

400P0143

SENATE LOCAL GOVERNMENT ENGROSSED NO. **SB 3** - 1/14/2008

Introduced by: The Committee on Local Government at the request of the Office of the
Secretary of State

1 FOR AN ACT ENTITLED, An Act to revise certain procedures concerning elections for special
2 districts and to declare an emergency.

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

4 Section 1. That § 6-16-4 be amended to read as follows:

5 6-16-4. The county auditor shall publish the notice of the voter registration deadline at least
6 once each week for two consecutive weeks, the last publication to be not less than ~~twenty-five~~
7 twenty-four nor more than thirty days prior to the election. The auditor shall publish notices of
8 election at least once each week for two consecutive weeks, the last publication to be not less
9 than four nor more than ten days before the election in at least one legal newspaper of general
10 circulation in the proposed district.

11 Section 2. That § 6-16-5 be amended to read as follows:

12 6-16-5. ~~The~~ If the proposed district contains less than one thousand eligible voters as defined
13 in § 6-16-6, the county auditor shall set a date, time, and location for a meeting to be held within
14 the district to conduct an election on the question of formation of the special district. The date



1 may not be more than sixty days after the appropriate board declares that the application for
2 incorporation is valid. The auditor shall appoint three judges of election, one of whom shall
3 serve as the superintendent, to conduct the election. The vote upon the question of incorporation
4 shall be by ballot which conforms to a ballot for a statewide question except that the statement
5 required to be printed on the ballot shall be prepared by the state's attorney. After the vote is cast
6 and counted, the judges shall prepare a certification showing the whole number of ballots cast,
7 together with the number voting for and the number voting against incorporation, and shall
8 return the certification to the county auditor. If a majority of the votes cast on the question of
9 formation is in favor, an election shall be conducted by those present at the same meeting to
10 elect the initial board of directors or trustees.

11 Section 3. That § 6-16-8 be amended to read as follows:

12 6-16-8. The State Board of Elections may promulgate rules pursuant to chapter 1-26
13 concerning:

- 14 (1) The petition form; ~~and~~ for the formation of a special district;
- 15 (2) The notice of election; and
- 16 (3) The nominating petition.

17 The petition form and notice of election shall include a description of the proposed district
18 boundaries.

19 Section 4. That chapter 6-16 be amended by adding thereto a NEW SECTION to read as
20 follows:

21 If the proposed district contains one thousand or more eligible voters as defined in § 6-16-6,
22 the county auditor shall set a date for an election to be held within the district on the question
23 of formation of the special district. The date may not be more than sixty days after the
24 appropriate board declares that the application for incorporation is valid. The election shall be

1 conducted pursuant to Title 12. The vote upon the question of incorporation shall be by ballot
2 which conforms to a ballot for a statewide question except that the statement required to be
3 printed on the ballot shall be prepared by the state's attorney. The election shall be canvassed
4 by the county commission.

5 Section 5. That chapter 6-16 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 If a majority of the votes cast in an election conducted pursuant to section 4 of this Act is
8 in favor on the question of formation of the special district, an election shall be conducted by
9 the county auditor within sixty days after the official canvass to elect the initial board of
10 directors or trustees. The election shall be conducted pursuant to Title 12. The county auditor
11 shall publish a notice of vacancy no later than fifty days prior to the election. Circulation of
12 nominating petitions may begin upon completion of the official canvass of the election to form
13 the district. Nominating petitions shall be filed with the county auditor by 5:00 p.m. at least
14 thirty days before the election. The nominating petitions shall contain signatures of at least
15 twenty-five registered voters in the district. Absentee ballots shall be made available to the
16 voters no later than twenty days before the date of election. The election shall be canvassed by
17 the county commission.

18 Section 6. Whereas, this Act is necessary for the support of the state government and its
19 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in
20 full force and effect from and after its passage and approval.

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

354P0629

SENATE ENGROSSED NO. **SCR 5** - 1/31/2008

Introduced by: Senators Sutton, Abdallah, Bartling, Dempster, Garnos, Gray, Hanson (Gary), Heidepriem, Hundstad, Jerstad, Katus, Kloucek, Knudson, Koetzle, Maher, Nesselhuf, Olson (Ed), Peterson (Jim), Turbak Berry, and Two Bulls and Representatives Halverson, Ahlers, Bradford, Brunner, Burg, Cutler, Dennert, Dreyer, Dykstra, Elliott, Engels, Faehn, Feinstein, Gassman, Gillespie, Gilson, Glenski, Hargens, Hills, Kirkeby, Krebs, Lucas, Lust, Miles, Moore, Nygaard, Olson (Russell), Rhoden, Sigdestad, Street, Thompson, Van Etten, Van Norman, and Vehle

1 A CONCURRENT RESOLUTION, Urging the Midwest Independent System Operator to
2 reconsider its pricing methodology with respect to certain energy transmission costs.

3 WHEREAS, the United States faces continuing challenges related to the availability of
4 energy and our dependence on foreign energy sources. The development and marketing of wind
5 energy and other forms of renewable energy is an issue and an opportunity of high priority for
6 our nation and our region; and

7 WHEREAS, in recent years, the upper Midwest has made great strides in the development
8 of wind energy, although numerous obstacles still remain as the region strives to fully develop
9 its energy resources; and

10 WHEREAS, a successful wind energy operation needs three elements: a wind energy
11 resource, transmission capabilities, and buyers for the energy that is produced. South Dakota has
12 the wind energy resource, but often faces obstacles in energy transmission and marketing.



1 Access to transmission lines to move wind power from South Dakota to available markets
2 remains a crucial impediment; and

3 WHEREAS, the Western Area Power Administration (WAPA) administers the grid that
4 handles the transmission of electric power produced in the Dakotas and the Western states. The
5 Midwest Independent System Operator (MISO) has corresponding responsibility for a large part
6 of the Midwest east of South Dakota, from Minnesota to Ohio, an area where a major share of
7 any new electric power generated in South Dakota would be marketed; and

8 WHEREAS, MISO has significant congestion problems and a serious backlog "queue" of
9 projects and facilities requesting transmission service through the MISO grid, the majority of
10 which are for new wind energy projects. Nearly the entire transmission system, particularly
11 anything connecting to the east from the Dakotas into the MISO area, is strained to capacity,
12 with a current time lag of two years or more between application to MISO and approval of a
13 project for study; and

14 WHEREAS, the use of an average pricing or "postage stamp" method that sets a price for
15 using the transmission system based on the average for all systems in the MISO area would
16 enhance transmission access by all parties in the Midwest and Great Plains. This method would
17 level the wholesale transmission playing field and spur the development of wind resources
18 available in our region; and

19 WHEREAS, impediments in the transmission system cannot be allowed to stifle the
20 development of energy from abundant renewable sources in the Midwest and Great Plains, and
21 it is incumbent on all parties to address these issues in an expeditious and equitable manner:

22 NOW, THEREFORE, BE IT RESOLVED, by the Senate of the Eighty-Third Legislature
23 of the State of South Dakota, the House of Representatives concurring therein, that the
24 Legislature urges the Midwest Independent System Operator (MISO) to reconsider its pricing

1 methodology and to use an average pricing method based on the average for all MISO covered
2 systems and to do everything in its power to reduce the queue facing prospective wind energy
3 projects; and

4 BE IT FURTHER RESOLVED, that the Legislature urges the states of North Dakota and
5 Minnesota to join with South Dakota in its efforts to persuade MISO to revise its transmission
6 pricing policies.