



# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

884P0053

## HOUSE EDUCATION ENGROSSED NO. **HB 1016**- 1/25/2008

Introduced by: Representatives Haverly, Brunner, Burg, and Faehn and Senators Smidt (Orville), Napoli, Olson (Ed), and Turbak Berry at the request of the Technical Institute Funding Task Force

1 FOR AN ACT ENTITLED, An Act to establish a new system of funding for the postsecondary  
2 technical institutes.

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

4 Section 1. Definition of terms. Terms used in this chapter mean:

- 5 (1) "Academic year," the period of time beginning with the fall semester, continuing  
6 through the spring semester, and culminating with the subsequent summer sessions;
- 7 (2) "Base funding allocation," for fiscal year 2009 is the amount appropriated by the  
8 Legislature in fiscal year 2008 through the General Appropriations Act for  
9 postsecondary career and technical education including the portions thereof that were  
10 reserved for specific purposes in accordance with ARSD 24:10:42:27. For fiscal year  
11 2010 and thereafter, it is the previous year's base funding allocation increased by the  
12 index factor. The base funding allocation may not be used for bond payments;
- 13 (3) "High cost program," a postsecondary technical institute program for which the  
14 program cost per student FTE exceeds the average program cost per student FTE for



- 1 all postsecondary technical institute programs;
- 2 (4) "Index factor," the cost-of-living adjustment for state employees for that fiscal year  
3 as proposed by the Governor and contained in the budget report prepared pursuant  
4 to § 4-7-9;
- 5 (5) "New program," a postsecondary technical institute program that, pursuant to § 13-  
6 39-18, is approved by the South Dakota Board of Education for the first time or an  
7 existing program that is redesigned to fill a new or expanding need and is determined  
8 by the board to be a new program for the purposes of this Act;
- 9 (6) "Program cost," any cost directly allocated to a program excluding the cost of any  
10 equipment purchased with funds from the postsecondary technical institute  
11 equipment subfund established in section 5 of this Act;
- 12 (7) "Program cost per student FTE," the program cost divided by the total student FTEs  
13 enrolled in the program;
- 14 (8) "Standard cost program," a postsecondary technical institute program for which the  
15 program cost per student FTE does not exceed the average program cost per student  
16 FTE for all postsecondary technical institute programs;
- 17 (9) "Student FTE," "Student full-time equivalent," a unit of measure based upon credit  
18 hours; one student FTE is equal to thirty credit hours per academic year;
- 19 (10) "High cost program share," a percentage calculated by dividing the total cost of all  
20 high cost programs by the total cost of all programs, excluding general education  
21 costs; and
- 22
- 23 (11) "Standard cost program share," a percentage calculated by dividing the total cost of  
24 all standard cost programs by the total cost of all programs, excluding general

1 education costs.

2 Section 2. The secretary of the Department of Education shall calculate, apportion and  
3 distribute state funds appropriated by the Legislature for the postsecondary technical institutes  
4 as follows:

5 (1) Examine the cost of each program over the previous three years and determine the  
6 three-year average cost of each program, excluding general education costs. For  
7 programs that have not existed for three years, determine the average cost over the  
8 time the program has existed;

9 (2) Using the three-year average cost of each program, determine the average program  
10 cost per student FTE for all the postsecondary technical institute programs;

11 (3) Based upon the average calculated in subsection (2), determine which postsecondary  
12 technical institute programs are high cost programs and which are standard cost  
13 programs;

14 (4) Apportion the high cost program share of the base funding allocation for the high  
15 cost programs and the standard cost program share of the base funding allocation for  
16 the standard cost programs;

17 (5) Determine the number of student FTEs at each postsecondary technical institute who  
18 were in high cost programs during the previous academic year and the number of  
19 students at each who were in standard cost programs, including those student FTEs  
20 enrolled only in general education courses, during the previous academic year;

21 (6) Distribute the apportionment for high cost programs as calculated in subsection (4)  
22 to the LEAs having jurisdiction over the postsecondary technical institutes in  
23 proportion to the number of student FTEs in high cost programs within each institute  
24 as calculated in subsection (5); and

1       (7)   Distribute the apportionment for standard cost programs as calculated in subsection  
2           (4) to the LEAs having jurisdiction over the postsecondary technical institutes in  
3           proportion to the number of student FTEs in standard cost programs within each  
4           institute as calculated in subsection (5).

5       Section 3. The secretary of the Department of Education shall make bond payments  
6       authorized in § 13-39-66 from general funds provided for the postsecondary technical institutes  
7       through the General Appropriations Act. The bond payments may not be deducted from the base  
8       funding allocation as defined in section 1 of this Act.

9       Section 4. Beginning in fiscal year 2012 and every three years thereafter, the Board of  
10       Education shall evaluate the apportionment and distribution of state funds to the state's  
11       postsecondary technical institutes and report its findings and recommendations to the  
12       Legislature and the Governor no later than the thirty-first day of August.

13       Section 5. There is hereby established within the state treasury the postsecondary technical  
14       institute auxiliary fund. The fund shall be a participating fund and shall be credited for all  
15       interest earned on fund balances. The Board of Education shall approve all expenditures from  
16       the postsecondary technical institute auxiliary fund. For purposes of administration, the fund  
17       shall be divided into three subfunds as follows:

18       (1)   The postsecondary technical institute maintenance and repair subfund to fund the  
19           maintenance and repair of existing facilities;

20       (2)   The postsecondary technical institute new program subfund to fund the one-time  
21           costs associated with starting a new program or retooling a current program to meet  
22           a new or expanding need; and

23       (3)   The postsecondary technical institute equipment subfund to fund the replacement of  
24           old or outdated equipment being used in current programs.

1 Section 6. That § 13-39-18 be amended to read as follows:

2 13-39-18. The director shall submit all requests for new programs and requests to expand  
3 or redesign current programs, if funds are requested for the expansion or redesign, from the  
4 postsecondary technical institutes in the state to the ~~state board~~ Board of Education for action.

5 Section 7. That § 13-39-37 be amended to read as follows:

6 13-39-37. The South Dakota Board of Education may adopt rules pursuant to chapter 1-26,  
7 to be administered by the director, governing the operation and maintenance of postsecondary  
8 technical institutes ~~which will~~ to afford the people of the state, insofar as practicable, an equal  
9 opportunity to acquire a public technical education. The rules may provide for the following:

- 10 (1) Curriculum and standards of instruction and scholarship;
- 11 (2) Attendance requirements, age limits of trainees, eligibility for attendance, and tuition  
12 payments and other charges;
- 13 (3) Apportionment and distribution of state funds pursuant to this Act, and the  
14 apportionment and distribution of all other funds made available to the board for  
15 carrying out the purposes of §§ 13-39-34 to 13-39-39, inclusive;
- 16 (4) Transportation requirements and payments;
- 17 (5) General administrative matters;
- 18 (6) The submission of the annual budget of the postsecondary technical institute which  
19 shall include, but is not limited to, a description of programs, a list of staff positions,  
20 and the amount for supplies and operating expenses associated with the programs  
21 offered. The rules shall require the budget to include all operating costs of programs,  
22 including those costs ineligible for reimbursement from federal and state funds, shall  
23 state the procedure for amending and filing it with the division of education services  
24 and resources and shall provide that failure to comply with the rules may result in

1 withholding of payments from federal and state funds;

2 (7) The submission of plans of LEAs for new construction or major renovation of  
3 facilities eligible for reimbursement. The rules regarding these plans shall provide a  
4 requirement that the LEA, by a written resolution, declare the LEA committed to  
5 begin construction if the budget of the state board provides the matching funds;

6 (8) The promotion and coordination of ~~vocational~~ career and technical education; and

7 (9) The duplication of programs.

8 Section 8. That § 13-39-38 be amended to read as follows:

9 13-39-38. The secretary of education shall calculate, apportion and distribute state funds  
10 made available for postsecondary technical institutes ~~through a formula approved by the South~~  
11 ~~Dakota Board of Education to the LEAs having jurisdiction over postsecondary technical~~  
12 ~~institutes to assist in maintaining and operating those schools~~ through the formula provided in  
13 this Act. The use of the funds are subject to rules adopted by the state board pursuant to  
14 subdivision § 13-39-37(3) and in accordance with the approved state plan for vocational  
15 education.

16 Section 9. That ARSD 24:10:42:27 be repealed.

17 ~~24:10:42:27. The Office of Career and Technical Education shall set aside and distribute~~  
18 ~~funds to postsecondary technical institutes for the following purpose before distributing funds~~  
19 ~~through the formula prescribed in § 24:10:42:28:~~

20 ~~—(1)— Bonding;~~

21 ~~—(2)— Maintenance and repair;~~

22 ~~—(3)— Day care;~~

23 ~~—(4)— Business and industry training coordinators;~~

24 ~~—(5)— New programs; and~~

1 ~~(6) Other.~~

2 Section 10. That ARSD 24:10:42:28 be repealed.

3 ~~24:10:42:28. The postsecondary technical institutes shall receive state funding, from the~~  
4 ~~amount appropriated by the Legislature less funds reserved in § 24:10:42:27, under a formula~~  
5 ~~that distributes these funds based on tuition full-time equivalents as follows:~~

6 ~~(1) Subtract the total set-asides reserved in § 24:10:42:27 from the total amount~~  
7 ~~appropriated by the Legislature within the general appropriations act;~~

8 ~~(2) Determine the tuition collected at each institution for the preceding fiscal year;~~

9 ~~(3) Sum the tuition collected at each institution as determined in subdivision (2) to~~  
10 ~~establish the total postsecondary institute tuition;~~

11 ~~(4) Determine the percent of the total tuition collected at each institution by dividing the~~  
12 ~~result in subdivision (2) for each institution by the result obtained in subdivision (3);~~  
13 ~~and~~

14 ~~(5) The allocation for each institution is then determined by multiplying the result~~  
15 ~~obtained in subdivision (4) times the result in subdivision (1).~~

16 Section 11. That ARSD 24:10:42:29 be repealed.

17 ~~24:10:42:29. The Office of Career and Technical Education shall revise the funding formula~~  
18 ~~each year using tuition data.~~

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

400P0144

## SENATE LOCAL GOVERNMENT ENGROSSED NO. **HB 1026** - 1/30/2008

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 provisions and procedures concerning  
2 elections.

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

4 Section 1. That § 6-8B-4 be amended to read as follows:

5 6-8B-4. The governing body shall publish notice of the election once each week for two  
6 consecutive weeks in all official newspapers designated by the public body or if there is no  
7 official newspaper, a newspaper of general circulation serving the public body. The second  
8 notice shall be published ~~at least twenty~~ not less than four nor more than ten days before the  
9 election.

10 ~~Notice~~ The notice shall state the maximum amount of bonds to be issued, the purpose for  
11 which bonds are to be issued, and other matters the governing body determines to be necessary.

12 Section 2. That § 9-10-6 be amended to read as follows:

13 9-10-6. ~~In all commission-governed municipalities within thirty~~ Within sixty days after an  
14 election directing the employment of a manager, ~~unless an annual election occurs within sixty~~



1 ~~days thereafter~~ in any commission-governed municipality, a special election shall be called and  
 2 held to elect ~~such~~ the nine commissioners. A plurality vote in the election of commissioners  
 3 ~~shall be~~ is sufficient to elect the commissioners.

4 ~~They~~ The commissioners shall qualify as provided by law and organize by electing ~~one of~~  
 5 ~~their number~~ a commissioner to act as mayor until the first regular meeting of the board in the  
 6 ~~next ensuing May, and thereupon such board shall succeed the board of commissioners then~~  
 7 ~~servin~~ g month following the first annual election of commissioners. At the first regular meeting  
 8 in ~~May of each year~~ they the month following the annual election, the commissioners shall elect  
 9 ~~one of their number~~ a commissioner to act as mayor for a term of one year.

10 ~~Such~~ The board ~~shall have~~ has the same powers conferred upon ~~boards~~ the board of  
 11 commissioners in a commission-governed municipality pursuant to chapter 9-9.  
 12 Except as otherwise provided in this chapter, the board shall be governed by the provisions of  
 13 the law relating to a commission-governed municipality.

14 Section 3. That § 9-11-8 be amended to read as follows:

15 9-11-8. The question of changing the form of government ~~having been once~~ may not be  
 16 voted upon ~~shall not be~~ again submitted within ~~two years thereafter~~ one year after the election  
 17 held pursuant to § 9-11-6.

18 Section 4. That § 9-13-21 be amended to read as follows:

19 9-13-21. The finance officer shall prepare and furnish, at the expense of the municipality,  
 20 all official ballots. The quantity of ballots provided shall be at least ten percent more than the  
 21 number of voters at the last comparable election. The ballots shall be white in color, of good  
 22 quality of print paper, printed in black ink, and in the English language only.

23 The ballots for municipal elections shall be available for absentee voting no later than fifteen  
 24 days prior to election day. If the ballots are for a secondary election, the ballots shall be

1 available no later than seven days prior to the secondary election day.

2 The names of the candidates for each office to be voted for in the precinct shall be arranged  
3 without any other designation than that of the office for which they are candidates. If more than  
4 one member of the governing body is to be elected, the ballot shall contain instructions as to  
5 how many candidates for the governing body are to be voted for. The finance officer shall  
6 determine, by lot, each candidate's position on the ballot. Each candidate may be present or  
7 represented when the position on the ballot is being determined.

8 No candidate's name may be printed upon the official ballot unless the candidate has been  
9 nominated as provided in this chapter.

10 Section 5. That § 9-13-28 be amended to read as follows:

11 9-13-28. The ~~auditor or clerk~~ finance officer, within two days after the result of the election  
12 is declared, shall notify each person elected to office of the person's election. If a person does  
13 not qualify within ten days after the first meeting of the month next succeeding the election, the  
14 office shall become vacant.

15 Section 6. That chapter 12-1 be amended by adding thereto a NEW SECTION to read as  
16 follows:

17 If any state court finds that a declaration of candidacy on a nominating petition is not valid,  
18 the candidacy shall be invalidated as of the date of filing. If the invalidation creates a vacancy  
19 which continues to exist after a primary election, the vacancy may be filled as provided in  
20 §§ 12-6-56 and 12-6-57.

21 Section 7. That § 12-1-7.1 be repealed.

22 ~~12-1-7.1. The county auditor shall report to the secretary of state prior to each primary and~~  
23 ~~general election on forms provided by the secretary of state whether the county uses paper~~  
24 ~~ballots or an automated tabulating system and its type.~~

1 Section 8. That § 12-6-51.1 be amended to read as follows:

2 12-6-51.1. If no candidate for United States Senate, ~~congressman~~ United States House of  
3 Representatives, or Governor in a race involving three or more candidates receives thirty-five  
4 percent of the votes of ~~his~~ the candidate's party, a secondary election shall be held ~~two~~ three  
5 weeks from the date of the first primary election. At the secondary election the only persons  
6 voted for shall be the two candidates receiving the highest number of votes at the first election.  
7 However, if there is a tie for second place in the first primary election and there is no tie for first  
8 place, all tying second place candidates shall be placed along with the first place candidate on  
9 the ballot for the secondary election. The secondary election shall be held at the same polling  
10 places, be conducted, returned, and canvassed and the results declared in the same manner as  
11 the first election. The person receiving the highest number of votes at the secondary election is  
12 nominated as the candidate ~~of his~~ for the party.

13 Section 9. That § 12-6-51.3 be amended to read as follows:

14 12-6-51.3. Within twenty-four hours after the completion of the canvass, the secretary of  
15 state shall certify runoff candidates, listed in the order determined by a drawing of names, to all  
16 county auditors ~~and include a ballot which may be duplicated.~~

17 Section 10. That § 12-6-51.4 be repealed.

18 ~~12-6-51.4. Any other provision of this chapter notwithstanding, the members of the county~~  
19 ~~commission may, by resolution, choose to hold the secondary election authorized pursuant to~~  
20 ~~§ 12-6-51.1 in conjunction with a regular school district election, and with a general municipal~~  
21 ~~election if the municipality has chosen to combine with the school district pursuant to §§ 9-13-~~  
22 ~~1.1 and 13-7-10. The combined election shall be held on the first Tuesday after the third~~  
23 ~~Monday of June. All expenses of a combined primary runoff, school district, and municipal~~  
24 ~~election shall be shared in a manner agreed upon by the governing bodies of the school district,~~

1 ~~the municipality, and the board of county commissioners. All other governmental~~  
2 ~~responsibilities associated with holding elections under the provisions of chapters 9-13, 12-6,~~  
3 ~~and 13-7 shall be shared as agreed upon by the governing bodies.~~

4 Section 11. That § 12-14-12 be repealed.

5 ~~— 12-14-12. Five days after the close of voter registration for each primary and general~~  
6 ~~election, each county auditor shall report to the secretary of state the number of election~~  
7 ~~precincts throughout the county.~~

8 Section 12. That § 12-17B-1 be amended to read as follows:

9 12-17B-1. Terms used in this chapter mean:

- 10 (1) "Automatic tabulating equipment," the apparatus necessary to automatically examine  
11 and count votes as designated on ballots, ~~punch cards~~, or entered directly into a  
12 computer by means of a touch screen or other data entry device and data processing  
13 machines which can be used for counting these votes and tabulating results;
- 14 (2) "Ballot," paper ballots containing the names of candidates and statements of  
15 measures to be voted on;
- 16 (3) "Counting location," any location selected by the person in charge of the election for  
17 the counting of votes cast in an election. A counting location shall be within the  
18 territorial jurisdiction of such person unless there is no suitable tabulating equipment  
19 available within the jurisdiction. However, in any event, all counting locations shall  
20 be within this state;
- 21 (4) "Direct recording electronic," a voting system which records votes by means of a  
22 ballot display provided by electro-optical devices that can be actuated by the voter,  
23 that process the data by means of a computer program, and that records voting data  
24 in internal memory devices;

- 1 (5) "Electronic ballot marking system," any electronic device which marks votes on a  
2 ballot;
- 3 (6) "Optical scan," a procedure in which votes are tabulated by means of examining  
4 marks made in voting response locations on the ballots with an optical mark reader  
5 (OMR);
- 6 (7) "Resolution board," a board at an automatic tabulating location comprised of a  
7 representative from each political party having a candidate on the ballot and whose  
8 candidate on the county-wide ballot at the last general election received at least  
9 fifteen percent of the votes. The county auditor may request additional board  
10 members balanced evenly by party. If the resolution board consists of more than one  
11 member from each party, the party shall designate which member of the party shall  
12 serve as co-leader of the resolution board. The co-leaders shall ensure that each board  
13 member is conducting resolution board duties uniformly and in accordance with  
14 applicable statutes and administrative rules. The board shall determine the disposition  
15 of those ballots which cannot be properly counted by the tabulating equipment and  
16 observe the activities at the counting location on behalf of ~~their~~ the board member's  
17 respective party affiliation. In strictly nonpartisan elections, the resolution board shall  
18 be comprised of two persons who are not employees of the jurisdiction conducting  
19 the election and shall be appointed by the person in charge of the election.

20 Section 13. That § 12-17B-13.1 be amended to read as follows:

21 12-17B-13.1. If automatic tabulating equipment is located at a polling place for processing  
22 ballots while the polls are open, the equipment may not be operated in a manner which returns  
23 an over-voted or partially under-voted ballot to the voter. The equipment shall be operated in  
24 a manner which returns any ballot that appears to the tabulating equipment to be blank or has

1 any possible mark which the tabulating equipment cannot determine. If a ~~blank~~ the ballot is  
2 returned to the voter, the voter may choose to remark ~~that the~~ the ballot, obtain a new ballot, or ~~have~~  
3 ~~the ballot resubmitted as a blank~~ resubmit the ballot.

4 Any central count automatic tabulating equipment ~~containing~~ shall contain the capability to  
5 out-stack ballots and shall be operated in a manner to out-stack any ballot which appears to the  
6 tabulating equipment to be blank or has any possible mark which the tabulating equipment  
7 cannot determine. If the ballot contains ~~votes from which the voter's intent may be legally~~  
8 ~~determined, the~~ any such mark, the resolution board shall examine the mark and make a  
9 determination of any individual vote according to the rules promulgated pursuant to chapter 1-  
10 26 by the state board of elections. The resolution board shall make a duplicate ballot as  
11 prescribed in § 12-17B-14 which shall be counted by the automatic tabulating equipment.

12 Section 14. That § 12-18-3 be amended to read as follows:

13 12-18-3. Except for sample ballots and materials and supplies necessary for the conduct of  
14 the election, no person may, in any polling place or within or on any building in which a polling  
15 place is located or within one hundred feet from any entrance leading into a polling place,  
16 maintain an office ~~or communications center~~ or public address system, or use any  
17 communication or photographic device in a manner which repeatedly distracts, interrupts, or  
18 intimidates any voter or election worker, or display campaign posters, signs, or other campaign  
19 materials or by any like means solicit any votes for or against any person or political party or  
20 position on a question submitted. No person may engage in any practice which interferes with  
21 the voter's free access to the polls or disrupts the administration of the polling place, or conduct,  
22 on the day of an election, any exit poll or public opinion poll with voters within one hundred  
23 feet of a polling place. A violation of this section is a Class 2 misdemeanor.

24 Section 15. That § 12-18-9.1 be amended to read as follows:

1 12-18-9.1. The superintendent of elections may order poll watchers and voters waiting to  
2 vote to position themselves where ~~they~~ the poll watchers and voters cannot see into voting  
3 booths, read identifying numbers on photo identification cards, or interfere with voters in the  
4 act of voting or with the official actions of the election board. A violation of such an order is  
5 a Class 2 misdemeanor.

6 Section 16. That § 12-18-12 be amended to read as follows:

7 12-18-12. Before delivering a ballot to any voter the member of the precinct election board  
8 in charge of the ballots shall stamp on ~~the back and near the top~~ of the ballot the official stamp  
9 provided for that purpose as follows:

- 10 (1) On a hand-counted ballot, on the back and near the top of the ballot; and  
11 (2) On an optical scan ballot, the location indicated by the person in charge of the  
12 election.

13 Section 17. That § 12-21-2 be amended to read as follows:

14 12-21-2. The county recount board of each county which conducts a recount authorized by  
15 this chapter shall consist of a recount referee and two voters of the county to be appointed by  
16 the presiding judge of the circuit court for that county, and shall provide for representation of  
17 the two political parties with the largest party registration in that county. The recount referee  
18 shall be a duly qualified member of the bar of the State of South Dakota and a member of the  
19 political party which polled the largest number of votes for Governor in the county in the last  
20 gubernatorial election. ~~All members~~ Prior to serving, each member of the recount board shall  
21 take an oath that the member will act in good faith and with impartiality. The state board of  
22 elections shall prescribe the oath to be taken.

23 Section 18. That § 12-21-32 be amended to read as follows:

24 12-21-32. ~~Forthwith upon~~ Upon the conclusion of the recount of all ballots to be recounted

1 the county recount board shall certify the result. The certificate ~~must~~ shall be signed by at least  
2 two members of ~~such~~ the board, attested under seal by the county auditor. ~~Such~~ The certificate  
3 shall set forth in substance the proceedings of the board and appearances of any candidates or  
4 representatives, shall adequately designate each precinct recounted, the vote of ~~such~~ each  
5 precinct according to the official canvass ~~thereof~~ previously made as to the office, nomination,  
6 position, or question involved, and the correct vote of such precinct as to ~~such~~ the office,  
7 nomination, position, or question as determined by ~~such~~ the board through ~~such~~ the recount.  
8 ~~Such~~ The certificate shall be made in duplicate, and either the original or duplicate original  
9 ~~forthwith~~ shall be transmitted to the secretary of state by ~~registered or certified~~ mail in any  
10 recount affecting a certificate to be issued by the secretary of state.

11 Section 19. That § 13-7-13 be amended to read as follows:

12 13-7-13. The business manager of the school district shall provide proper ballots, pollbooks,  
13 voting booths, and necessary supplies as required by law to the proper election officials on  
14 election day. The ballots shall be similar in form to those authorized by law for municipal  
15 elections. The quantity of ballots provided shall be at least ten percent more than the number  
16 of voters at the last comparable election. No party affiliation may appear on the ballot and the  
17 names of the candidates for the respective vacancies shall be printed on the ballot. Each  
18 candidate's position on the ballot shall be chosen by lot by the business manager and each  
19 candidate may be present or represented when the position on the ballot is being determined.  
20 The ballots for school elections shall be available for absentee voting no later than fifteen days  
21 prior to election day.

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

718P0299

HOUSE STATE AFFAIRS  
ENGROSSED NO. **HB 1107** - 2/4/2008

Introduced by: The Committee on Government Operations and Audit at the request of the  
Interim Committee on Government Operations and Audit

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to the promulgation of  
2 rules to set various licensing and other fees for certain professions and occupations.

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

4 Section 1. That § 36-4-19 be amended to read as follows:

5 36-4-19. The Board of Medical and Osteopathic Examiners may, without examination, issue  
6 a license to any applicant holding a currently valid license or certificate issued to the applicant  
7 by the examining board of the District of Columbia, any state or territory of the United States,  
8 the National Board of Medical Examiners, the National Board of Osteopathic Physicians and  
9 Surgeons, or any province of Canada, if the legal requirements of the examining board at the  
10 time it issued the license or certificate were not less than those of this state at the time the  
11 license is presented for registration.

12 However, the board may require the applicant to successfully pass either an oral or written  
13 examination and personally appear before the board, a member of the board, or its staff.

14 Each applicant applying under the provisions of this chapter shall pay to the secretary of the



1 board a license fee not to exceed two hundred dollars to be set by the board by rule promulgated  
2 pursuant to chapter 1-26.

3 Section 2. That § 36-4-20 be amended to read as follows:

4 36-4-20. If it appears to the State Board of Medical and Osteopathic Examiners by a  
5 resolution thereof duly made and adopted, that an urgent need exists in any state-owned and  
6 operated medical institution for the services of a practitioner of medicine, surgery, and obstetrics  
7 and their branches, as a state employee, which cannot be adequately and effectively served by  
8 a regularly licensed practitioner, the board may, in its discretion, grant a temporary permit to an  
9 applicant who has satisfactorily passed a special examination and paid a fee ~~of~~ not to exceed  
10 fifty dollars for said the examination, notwithstanding that the applicant has not completed the  
11 period of internship or residence training in a hospital approved by the board and has failed or  
12 has been unable to satisfactorily show that he is a graduate of an approved medical or  
13 osteopathic college. The temporary permit shall be issued and be effective for one year from the  
14 date of issuance of such permit. The temporary permit entitles the person to whom issued to  
15 engage in the practice of medicine, surgery, and obstetrics and their branches as a state  
16 employee under the supervision of a licensed physician in such state-owned and operated  
17 medical institution and not elsewhere. Such temporary permit may be renewed by the board  
18 upon application to it on an annual basis and the payment of an annual renewal fee of not to  
19 exceed fifteen dollars. Except as may otherwise be provided in this section, applications for such  
20 temporary permits shall be processed in the same manner as regular license applications under  
21 § 36-4-11, and the holder of any such permit ~~shall be~~ is subject to all restrictions,  
22 responsibilities, and privileges inuring to regular licensees under this chapter. The examination  
23 and renewal fees provided for in this section shall be set by the board by rules promulgated  
24 pursuant to chapter 1-26.

1 Section 3. That § 36-4-20.2 be amended to read as follows:

2 36-4-20.2. A certificate for locum tenens practice may be issued by the Board of Examiners  
3 to an applicant who is a current holder of a valid license to practice medicine or osteopathy in  
4 any state or territory of the United States, the District of Columbia, or province of Canada, or  
5 who has graduated and received a diploma from an approved medical or osteopathic college and  
6 who has completed at least one year of an approved internship or residency program or its  
7 equivalent. ~~When~~ If such applicant is not the holder of a currently valid license to practice  
8 medicine or osteopathy, as heretofore stated, the board may grant such certificate only after the  
9 applicant has satisfactorily passed a special examination for locum tenens certificate  
10 administered by the board. To obtain a locum tenens certificate, a petition ~~must~~ shall be  
11 presented to the board signed under oath, by a licensed physician practicing in this state and by  
12 the applicant requesting a locum tenens certificate which petition shall set forth the reasons why  
13 the applicant should be issued a locum tenens certificate. In addition to the petition, the locum  
14 tenens applicant ~~must~~ shall complete and submit to the board the application required by § 36-4-  
15 19 accompanied by a fee of not to exceed fifty dollars made payable to the secretary of the board  
16 and appear personally at the office of the South Dakota State Board of Medical and Osteopathic  
17 Examiners or at the office of a member of the board. The application fee provided for in this  
18 section shall be set by the board by rule promulgated pursuant to chapter 1-26.

19 Section 4. That § 36-4-20.7 be amended to read as follows:

20 36-4-20.7. The Board of Examiners may issue a resident certificate to an applicant who has  
21 satisfied all the requirements for licensure set forth in § 36-4-11, except having successfully  
22 completed a program as an intern or resident, and has successfully completed the first year of  
23 a residency program. The applicant shall make application for the resident certificate to the  
24 board on forms provided by the board. The application shall be accompanied by an application

1 fee ~~of set by the board, by rule promulgated pursuant to chapter 1-26, not to exceed~~ fifty dollars.

2 Section 5. That § 36-4-24.1 be amended to read as follows:

3 36-4-24.1. Each person receiving a license under the provisions of this chapter shall apply,  
4 on a form approved by the Board of Medical and Osteopathic Examiners, for a renewal of the  
5 license. The renewal shall be issued by the secretary upon payment of a ~~an annual~~ fee ~~to be fixed~~  
6 ~~annually~~ set by the board, by rule promulgated pursuant to chapter 1-26, not exceeding the sum  
7 of two hundred dollars. The renewal shall be in the form of a receipt acknowledging payment  
8 of the required fee and signed by the secretary of the board.

9 Section 6. That § 36-4A-34 be amended to read as follows:

10 36-4A-34. The board shall set, by rules promulgated pursuant to chapter 1-26, and shall  
11 collect in advance the following nonrefundable fees from applicants:

- 12 (1) For an initial license, not more than seventy-five dollars;
- 13 (2) For renewal of a license, not more than one hundred dollars;
- 14 (3) For reinstatement of a lapsed license, the current renewal fee plus not more than  
15 twenty-five dollars;
- 16 (4) For a temporary license, not more than fifty dollars.

17 Section 7. That § 36-4B-29 be amended to read as follows:

18 36-4B-29. The board shall promulgate rules pursuant to chapter 1-26 to set fees in each of  
19 the following categories in an amount which will produce sufficient revenue for the ensuing  
20 fiscal year not to exceed one hundred twenty percent of the anticipated expenses of the board  
21 for the operation of the advanced life support program by the board for that year.

22 The license fees for all advanced life support personnel shall be as follows:

- 23 (1) Licensure by examination, not less than fifteen dollars nor more than fifty dollars;
- 24 (2) Reexamination within one year, not less than fifteen dollars nor more than fifty

1           dollars;

2       (3)    Licensure by reciprocity, not less than twenty-five dollars nor more than seventy-five  
3           dollars;

4       (4)    Renewal of a license, not less than ten dollars, nor more than twenty-five dollars;

5       (5)    Reissuance of a lost or destroyed license, following approval of the board, not more  
6           than ten dollars.

7       Section 8. That § 36-4C-13 be amended to read as follows:

8       36-4C-13. The board shall prescribe and publish annual fees ~~annually~~ for the following by  
9   promulgating rules pursuant to chapter 1-26:

10      (1)    Initial license fee<sub>;</sub> not to exceed seventy-five dollars;

11      (2)    Renewal of license fee<sub>;</sub> not to exceed sixty dollars;

12      (3)    Late renewal fee<sub>;</sub> not to exceed ninety-five dollars; and

13      (4)    Temporary permit fee<sub>;</sub> not to exceed forty dollars.

14      Section 9. That § 36-5-11 be amended to read as follows:

15      36-5-11. The fee for the license shall be set ~~in a~~ by rule, promulgated by the Board of  
16   Chiropractic Examiners pursuant to chapter 1-26, and may not exceed three hundred dollars.  
17   The fee shall be paid to the secretary-treasurer of the board when the application is submitted.

18      Section 10. That § 36-5-13 be amended to read as follows:

19      36-5-13. Any person licensed to practice chiropractic under the laws of any other state  
20   having equivalent requirements of this chapter or licensed by the National Board of Chiropractic  
21   Examiners may, in the discretion of the Board of Chiropractic Examiners, be issued a license  
22   to practice chiropractic in this state without examination, upon payment of the fee ~~to be set in~~  
23   a by rule, promulgated by the board pursuant to chapter 1-26, not to exceed three hundred  
24   dollars.

1 Section 11. That § 36-5-14.1 be amended to read as follows:

2 36-5-14.1. Each person receiving a license under the provisions of this chapter shall procure  
3 from the secretary-treasurer of the board on or before the thirty-first day of December of each  
4 year, a renewal of license. The renewal shall be issued by the secretary-treasurer upon payment  
5 of the fee ~~to be fixed in a~~ set by rule, promulgated by the board pursuant to chapter 1-26, not  
6 exceeding the sum of three hundred dollars. The renewal license shall be in the form of a receipt  
7 acknowledging payment of the required fee and signed by the secretary-treasurer.

8 Section 12. That § 36-6A-50 be amended to read as follows:

9 36-6A-50. The Board of Dentistry shall ~~establish and collect~~ promulgate fees, by rule  
10 pursuant to chapter 1-26, provided for in this chapter, within the following limits:

- 11 (1) Examination fee for dentists, not more than three hundred dollars;
- 12 (2) Examination fee for dental hygienists, not more than one hundred fifty dollars;
- 13 (3) Annual registration fee for dentists, not more than two hundred dollars;
- 14 (4) Annual registration fee for dental hygienists, not more than one hundred dollars;
- 15 (5) Duplicate license or duplicate annual registration certificate fee for dentists or dental  
16 hygienists, not less than five dollars nor more than fifteen dollars;
- 17 (6) Reinstatement fee, an amount equal to the examination fee;
- 18 (7) Continuing education program annual fee of not more than twenty dollars;
- 19 (8) Registration certificate for satellite offices, not more than ten dollars;
- 20 (9) Temporary registration fee, not more than three hundred fifty dollars;
- 21 (10) Annual registration fee for persons practicing dental radiography, not more than fifty  
22 dollars;
- 23 (11) Examination fee for dental radiographers, not more than fifty dollars;
- 24 (12) General anesthesia, parenteral sedation, and nitrous oxide permits, not more than fifty

1           dollars;

2       (13) Initial registration fee for persons practicing dentistry, not more than two hundred  
3           dollars;

4       (14) Initial registration fee for persons practicing dental hygiene, not more than two  
5           hundred dollars;

6       (15) Initial registration fee for persons practicing expanded duties, not more than fifty  
7           dollars;

8       (16) Initial registration fee for persons practicing dental radiography, not more than fifty  
9           dollars;

10      (17) Annual registration for persons practicing expanded duties, not more than fifty  
11          dollars;

12      (18) Repealed by SL 2003, ch 199, § 1.

13      (19) Endorsement or credentials fee, not more than six hundred dollars.

14      Section 13. That § 36-6A-58 be amended to read as follows:

15      36-6A-58. Every licensed dentist, dental hygienist, or registered dental radiographer upon  
16      changing his or her home or place of business shall, within ten days thereafter, furnish the  
17      secretary-treasurer of the Board of Dentistry with ~~his~~ the new address. In case of a lost or  
18      destroyed license, and upon satisfactory proof of the loss or destruction thereof being furnished  
19      to the board, the latter may issue a duplicate license, charging a fee ~~established~~, not to exceed  
20      twenty dollars, set by the board by rule promulgated pursuant to chapter 1-26.

21      Section 14. That § 36-7-12 be amended to read as follows:

22      36-7-12. Any person desiring to take an examination to determine his or her qualifications  
23      for the practice of optometry ~~must~~ shall file a sworn application with the secretary of the Board  
24      of Examiners in Optometry at least thirty days prior to the time set therefor and pay a fee ~~to be~~

1 set ~~in a~~ by rule promulgated pursuant to chapter 1-26 by the Board of Examiners before  
2 examination and an additional amount ~~to be set in~~ by rule promulgated pursuant to chapter 1-26  
3 by the Board of Examiners upon issuance of certificate. Upon failure to pass ~~his~~ the first  
4 examination, the candidate, ~~if he elects,~~ may pay elect to be reexamined upon payment of such  
5 additional amount ~~to be,~~ not to exceed one hundred dollars, set ~~in~~ by rule promulgated pursuant  
6 to chapter 1-26 by the Board of Examiners and take another examination within fifteen months.

7 Section 15. That § 36-7-13 be amended to read as follows:

8 36-7-13. By way of substitution for the requirements in subdivisions 36-7-11(3), (4), and  
9 (5) and in §§ 36-7-12, 36-7-12.1 and 36-7-31, a candidate for licensure in this state may be  
10 given a certificate of registration by paying a fee ~~of,~~ not to exceed one hundred seventy-five  
11 dollars, upon proof to the Board of Examiners by certified copy of the certificate of registration  
12 issued to the candidate by another United States jurisdiction where the requirements for  
13 registration are deemed by the South Dakota State Board to be the equivalent to those provided  
14 by this chapter if the candidate passes the examination administered by the board required by  
15 this chapter or presents satisfactory evidence to the board of having passed substantially similar  
16 examinations in another jurisdiction, and the candidate has practiced optometry in the other state  
17 for at least five consecutive years immediately prior to the candidate's application for  
18 registration in South Dakota. The board may promulgate rules, pursuant to chapter 1-26, to  
19 establish standards for licensure through endorsement pursuant to this section, including the  
20 level and status of licensure required, the evidence required to establish that the requirements  
21 for registration in the jurisdiction in which the candidate is licensed are substantially similar to  
22 those required by this chapter, the procedure and contents required for submitting the  
23 application, ~~and~~ any additional education, testing, or training necessary to ensure the  
24 competency of the candidate, and the fee provided for in this section.

1 Section 16. That § 36-7-15.2 be amended to read as follows:

2 36-7-15.2. Only those optometrists who have satisfactorily completed a curriculum in  
3 general and ocular pharmacology at an institution accredited by a regional or professional  
4 accreditation organization which is recognized or approved by the council on postsecondary  
5 accreditation of the United States Office of Education within the Department of Health and  
6 Human Services and approved by the State Board of Examiners in Optometry are eligible to  
7 apply for the certificate issued pursuant to § 36-7-15.1. Those practitioners who have established  
8 their eligibility pursuant to this section must also pass an examination approved by the board  
9 before they may be certified to administer the topical pharmaceutical agents described by § 36-  
10 7-1. The State Board of Examiners in Optometry may promulgate rules pursuant to chapter 1-26  
11 to establish a fee, not to exceed one hundred dollars, for the examination, reexamination, and  
12 certification for the use of topical pharmaceutical agents as provided by this section.

13 Section 17. That § 36-8-11 be amended to read as follows:

14 36-8-11. Any applicant for license as a podiatrist failing any examination ~~shall be~~ is entitled  
15 within six months after such refusal to a re-examination upon the payment of an additional fee  
16 ~~of, not to exceed ten dollars for such examination, but, The fee shall be set by the board by rule~~  
17 promulgated pursuant to chapter 1-26. However, two such re-examinations shall exhaust his the  
18 applicant's privilege under the original application.

19 Section 18. That § 36-8-15 be amended to read as follows:

20 36-8-15. The fee for annual renewal of a certificate of a podiatrist ~~shall~~ may not exceed one  
21 hundred fifty dollars, ~~to be~~ as set by rule by the Board of Podiatry Examiners pursuant to chapter  
22 1-26. All renewal certificates shall remain in full force and effect for one year, unless a different  
23 time is fixed by ~~the rules and regulations of~~ rule promulgated pursuant to chapter 1-26 by the  
24 Board of Podiatry Examiners.

1 Section 19. That § 36-8-20 be amended to read as follows:

2 36-8-20. Any podiatrist whose license has been suspended or revoked may be reinstated or  
3 have a new license issued ~~to him~~, as the case may be, ~~when if~~ in the discretion of the Board of  
4 Podiatry Examiners, such action is warranted, ~~provided such~~. However, the podiatrist shall pay  
5 all costs of the proceedings resulting in ~~his~~ the suspension or revocation of license and  
6 reinstatement or new license and in addition thereto a fee ~~of~~, set by the board, by rule  
7 promulgated pursuant to chapter 1-26, not to exceed twenty-five dollars.

8 Section 20. That § 36-9-35 be amended to read as follows:

9 36-9-35. The Board of Nursing shall ~~collect in advance~~ promulgate by rule pursuant to  
10 chapter 1-26 the following nonrefundable registered nurse fees which the board shall collect in  
11 advance from applicants:

- 12 (1) For initial licensure by examination or endorsement, not more than two hundred  
13 dollars, exclusive of any fee which may be required for a nationally administered  
14 examination;
- 15 (2) For reexamination, not more than the amount then required for licensure by  
16 examination;
- 17 (3) For endorsement to another state, territory, or foreign country, not more than thirty  
18 dollars;
- 19 (4) For initial certified registered nurse anesthetist certification, not more than two  
20 hundred dollars;
- 21 (5) For issuance of any temporary or limited permit, not more than fifty dollars;
- 22 (6) For biennial renewal of license, not more than one hundred fifty dollars;
- 23 (7) For reinstatement of a lapsed license or certified registered nurse anesthetist  
24 certification, the current renewal fee plus not more than one hundred dollars;

- 1 (8) For providing a transcript, not more than five dollars;
- 2 (9) For effecting a name change upon the records of a licensee or certified registered  
3 nurse anesthetist certificate holder, not more than twenty dollars;
- 4 (10) For issuing a duplicate license or certified registered nurse anesthetist certificate, not  
5 more than thirty dollars;
- 6 (11) For biennial renewal of certified registered nurse anesthetist certification, not more  
7 than one hundred fifty dollars;
- 8 (12) For placing a license or certified registered nurse anesthetist certification on inactive  
9 status, not more than twenty dollars;
- 10 (13) For issuance of any limited license, not more than thirty dollars.

11 Section 21. That § 36-9-43 be amended to read as follows:

12 36-9-43. The Board of Nursing shall ~~collect in advance~~ promulgate by rule pursuant to  
13 chapter 1-26 the following nonrefundable licensed practical nurse fees which the board shall  
14 collect in advance from applicants:

- 15 (1) For initial licensure by examination or endorsement, not more than two hundred  
16 dollars, exclusive of any fee which may be required for a nationally administered  
17 examination;
- 18 (2) For reexamination, not more than the amount then required for licensure by  
19 examination;
- 20 (3) For endorsement to another state, territory, or foreign country, not more than thirty  
21 dollars;
- 22 (4) For issuance of any temporary or limited permit, not more than fifty dollars;
- 23 (5) For biennial renewal of license, not more than one hundred fifty dollars;
- 24 (6) For reinstatement of a lapsed license, the current renewal fee plus not more than one

1 hundred dollars;

2 (7) For providing a transcript, not more than five dollars;

3 (8) For effecting a name change upon the records of a licensee, not more than twenty  
4 dollars;

5 (9) For issuing a duplicate license, not more than thirty dollars;

6 (10) For placing a license on inactive status, not more than twenty dollars.

7 Section 22. That § 36-9A-26 be amended to read as follows:

8 36-9A-26. The boards shall promulgate, by rule pursuant to chapter 1-26, and shall collect  
9 in advance the following nonrefundable fees from applicants:

10 (1) For initial licensure or endorsement from another state, not more than two hundred  
11 dollars;

12 (2) For biennial renewal of license, not more than one hundred fifty dollars;

13 (3) For reinstatement of a lapsed license, the current renewal fee and not more than one  
14 hundred dollars;

15 (4) For providing a transcript, not more than five dollars;

16 (5) For effecting a name change upon the records of the license holder, not more than  
17 twenty dollars;

18 (6) For issuance of a duplicate license, not more than thirty dollars;

19 (7) For issuing a temporary permit, not more than fifty dollars;

20 (8) For placing a license on inactive status, not more than twenty dollars;

21 (9) For endorsement to another state, territory, or foreign country, not more than thirty  
22 dollars.

23 Section 23. That § 36-9B-4 be amended to read as follows:

24 36-9B-4. A medical assistant seeking registration under this chapter shall complete an

1 application prescribed by the Board of Medical and Osteopathic Examiners and the Board of  
2 Nursing. The application shall be submitted to the Board of Medical and Osteopathic  
3 Examiners. A registration fee ~~of, not to exceed~~ ten dollars, shall accompany the application and  
4 shall be paid to the Board of Medical and Osteopathic Examiners. The fee shall be set by the  
5 board by rule promulgated pursuant to chapter 1-26.

6 The registration shall be renewed biennially by payment of a fee ~~of, not to exceed~~ five  
7 dollars. The fee shall be set by the board by rule promulgated pursuant to chapter 1-26. A  
8 registration not renewed by December thirty-first of the year of expiration lapses.

9 Section 24. That § 36-10-33 be amended to read as follows:

10 36-10-33. Any license issued by the board, pursuant to the provisions of this chapter, expires  
11 on the first day of January of the year next succeeding the issuance thereof. A license may be  
12 renewed upon the payment of a an annual fee ~~to be fixed annually, in rule, set by the board, by~~  
13 rule promulgated pursuant to chapter 1-26, not exceeding the sum of fifty dollars. Failure of a  
14 licensee to renew the license on or before the first day of July of each year ~~shall constitute~~  
15 constitutes a forfeiture of the license. However, any person who has forfeited a license under  
16 this chapter may have the license restored by making written application therefor and by  
17 payment of the annual renewal fee for the current year.

18 Section 25. That § 36-11-17 be amended to read as follows:

19 36-11-17. Every person initially applying for a certificate of registration with the Board of  
20 Pharmacy as a registered pharmacist shall pay to the board with ~~his~~ the application a fee, not to  
21 exceed thirty-five dollars, set by the board by rule promulgated pursuant to chapter 1-26.

22 Section 26. That § 36-11-19 be amended to read as follows:

23 36-11-19. The Board of Pharmacy may in its discretion grant certificates of registration to  
24 such persons as shall furnish with their applications satisfactory proof that they have been

1 registered by examination in some other state; provided that such other state required a degree  
2 of competency at the time such person was licensed at least equal to that required of licentiates  
3 in this state at that same time. The State Board of Pharmacy, in order to be informed, may, in  
4 determining the degree of fitness required by the several states' boards of pharmacy for granting  
5 license and reciprocal registration, join with other states' boards of pharmacy. Every person  
6 applying for registration pursuant to this section shall pay to the board upon application a fee,  
7 not to exceed one hundred fifty dollars, set by the board ~~in rule~~ by rule promulgated pursuant  
8 to chapter 1-26.

9 Section 27. That § 36-11-32 be amended to read as follows:

10 36-11-32. Upon a form prescribed by the State Board of Pharmacy and the payment of a fee,  
11 not to exceed two hundred dollars, set by the Board of Pharmacy in accordance with chapter 1-  
12 26, the State Board of Pharmacy shall issue to pharmacists in good standing, registered under  
13 the laws of this state, a permit to conduct a pharmacy.

14 Section 28. That § 36-12-12 be amended to read as follows:

15 36-12-12. Any person who is over the age of eighteen years desiring to begin the practice  
16 of veterinary medicine or veterinary surgery in the State of South Dakota, shall make application  
17 to the Board of Veterinary Medical Examiners for license to do so. Such application shall be  
18 made on a form furnished by the board and shall be accompanied by evidence that the applicant  
19 has graduated in and received a degree from an accredited or approved college of veterinary  
20 medicine or the holder of a current certificate issued by the American veterinary medical  
21 association educational commission for foreign veterinary graduates, indicating that the  
22 applicant has demonstrated knowledge and skill equivalent to that possessed by a graduate of  
23 an accredited or approved college of veterinary medicine. Every person applying to the board  
24 for license to practice shall pay to the board a fee ~~of~~ not to exceed one hundred dollars, which

1 shall become a part of the funds of the treasury of the board.

2 The board shall promulgate rules pursuant to chapter 1-26:

3 ~~To~~ to set the application for licensure fee and establish the educational training, reciprocity,  
4 discipline, and examination standards for the licensure for the practice of veterinary medicine  
5 and veterinary technicians. Application fees for veterinarians may not exceed one hundred  
6 dollars and application fees for veterinary technicians may not exceed twenty-five dollars.

7 Section 29. That § 36-12-15 be amended to read as follows:

8 36-12-15. The Board of Veterinary Medical Examiners, without examination, may issue a  
9 license to practice veterinary medicine to a citizen of the United States or a resident of South  
10 Dakota who has been actively engaged in such profession in some other state, territory, or the  
11 District of Columbia, upon the certificate of the proper licensing authority of that state, territory,  
12 or the District of Columbia, certifying that the applicant is duly licensed, that his license has  
13 never been suspended or revoked, and that in so far as records of that authority are concerned,  
14 the applicant is entitled to its endorsement. The state, territory, or District of Columbia from  
15 which the applicant comes shall have and maintain standards regulating the profession at least  
16 equal to those maintained in the profession in South Dakota. In order that the board may  
17 determine such standards, the secretary of the examining board shall gather information from  
18 other states bearing on this point. Such license shall only be issued to those filing application  
19 with the secretary of the board accompanied by a fee ~~of twenty-five~~ not to exceed one hundred  
20 dollars. The fee shall be set by the board by rule promulgated pursuant to chapter 1-26.

21 Section 30. That § 36-12-19 be amended to read as follows:

22 36-12-19. Each person licensed by the Board of Veterinary Medical Examiners to practice  
23 veterinary medicine in this state shall procure from the secretary of the board on or before July  
24 first, on a biennial basis, a certificate of registration. Such certificate shall be issued by the

1 secretary upon payment of a fee ~~to be fixed annually~~ set by the board, by rule, promulgated  
2 pursuant to chapter 1-26, not exceeding to exceed the sum of two hundred dollars. No licensed  
3 person applying for a certificate of registration after July first may be issued a certificate without  
4 paying a late fee not to exceed one hundred dollars.

5 Section 31. That § 36-12-21.3 be amended to read as follows:

6 36-12-21.3. An application for registry of a veterinary technician shall be filed with the  
7 board by the licensed veterinarian under whom the technician will practice. The application for  
8 registry shall set out the qualifications of the technician required by the rules of the board and  
9 the application shall be on forms provided by the board. The fee for registration of a veterinary  
10 technician ~~is ten~~ shall be set by the board by rules promulgated pursuant to chapter 1-26 and  
11 may not exceed fifty dollars and the. The fee shall accompany the application.

12 Section 32. That § 36-12-21.5 be amended to read as follows:

13 36-12-21.5. The registration certificate of a veterinary technician shall be renewed each year  
14 by procuring a renewal certificate from the board on or before the first day of July of each year.  
15 The fee for renewal of the certificate shall be ~~fixed annually~~ set by the board, by rule,  
16 promulgated pursuant to chapter 1-26, and may not exceed the sum of ~~five~~ fifty dollars. Failure  
17 to renew a certificate on or before July first of each year constitutes a forfeiture of the  
18 registration certificate.

19 Section 33. That § 36-14-24 be amended to read as follows:

20 36-14-24. The fee to be paid by an applicant for an examination to determine the applicant's  
21 fitness to receive a certificate of registration to practice barbering is may not exceed one  
22 hundred dollars and for the issuance of the certificate, may not exceed fifty dollars; by an  
23 applicant for an examination to determine the applicant's fitness to receive a certificate of  
24 registration to practice as an apprentice, may not exceed one hundred dollars, and for the

1 issuance of the certificate, may not exceed fifty dollars. ~~The following~~ All fees shall be set by  
2 the board by ~~rule~~ rules promulgated pursuant to chapter 1-26. For the annual renewal of a  
3 certificate of registration to practice barbering, no more than eighty dollars, and for the  
4 restoration of an expired certificate, no more than twenty dollars, plus no more than fifteen  
5 dollars penalty for each expired year; for the annual renewal of a certificate of registration to  
6 practice as an apprentice, no more than fifty dollars, and for the restoration of an expired  
7 certificate, no more than twenty dollars, plus no more than fifteen dollars penalty for each  
8 expired year. The fee to be paid for a permit to operate a barber school or college shall be set  
9 by rule promulgated pursuant to chapter 1-26 and may not be more than one hundred fifty  
10 dollars annually.

11 Section 34. That § 36-14-28 be amended to read as follows:

12 36-14-28. No shop license may be issued to any person for any new shop wanting to  
13 commence operation, or for any shop changing hands, or changing location, until the shop has  
14 passed an inspection of the premises and equipment. The inspection shall be made by the Board  
15 of Barber Examiners pursuant to the rules promulgated by the board pursuant to chapter 1-26.  
16 The fee for the original inspection ~~which is~~ may not exceed one hundred twenty-five dollars, as  
17 established by the board by rule promulgated pursuant to chapter 1-26, and shall be submitted  
18 along with the application for license and license fee.

19 Section 35. That § 36-19-17 be amended to read as follows:

20 36-19-17. Every funeral director who, on July 1, 1963, held a license which had been duly  
21 issued under the laws of this state, is entitled to have his license renewed annually upon payment  
22 of renewal fees of not to exceed fifty dollars ~~to be fixed~~ set by the State Board of Funeral  
23 Service, by rule promulgated pursuant to chapter 1-26.

24 Section 36. That § 36-19-18 be amended to read as follows:

1       36-19-18. The State Board of Funeral Service shall provide for registration of trainees for  
2 license to practice funeral service. Trainees shall at all times remain registered with the board;  
3 and shall pay an initial registration fee not to exceed twenty-five dollars set by the State Board  
4 of Funeral Service, by rule promulgated pursuant to chapter 1-26.

5       Section 37. That § 36-19-25 be amended to read as follows:

6       36-19-25. A license to practice funeral service shall be issued and is renewable annually  
7 upon payment of a fee not to exceed one hundred twenty-five dollars ~~to be fixed~~ set by the State  
8 Board of Funeral Service, by rule promulgated pursuant to chapter 1-26.

9       Section 38. That § 36-19-27 be amended to read as follows:

10       36-19-27. An application for a license to operate a funeral establishment shall be submitted  
11 for each location and shall be in writing on a form provided by the State Board of Funeral  
12 Service and shall be accompanied by a fee not to exceed two hundred fifty dollars set by the  
13 State Board of Funeral Service, by rule promulgated pursuant to chapter 1-26. A license to  
14 operate a funeral establishment may be granted upon approval and recommendation by the state  
15 board.

16       The application shall state the name of the individual who is duly licensed as either a funeral  
17 director or in funeral service and who shall be in charge and responsible for all transactions  
18 conducted and services performed.

19       Section 39. That § 36-19-37 be amended to read as follows:

20       36-19-37. All licenses issued under the provisions of this chapter ~~shall be~~ are valid only until  
21 the following thirty-first day of December.

22       If a licensee desires a renewal of such license, the State Board of Funeral Service shall grant  
23 it, except for cause in compliance with chapter 1-26. All applications for renewal shall be made  
24 within thirty days prior to the expiration of the license and shall be accompanied by a renewal

1 fee not to exceed two hundred fifty dollars, ~~to be fixed set~~ by the board, by rule promulgated  
2 pursuant to chapter 1-26.

3 Section 40. That § 36-20B-12 be amended to read as follows:

4 36-20B-12. The board may promulgate rules, pursuant to chapter 1-26, governing its  
5 administration and enforcement of this chapter and the conduct of licensees, including:

- 6 (1) Rules governing the board's meetings and the conduct of its business;
- 7 (2) Rules of procedure governing the conduct of investigations and hearings by the  
8 board;
- 9 (3) Rules specifying the fees, educational and experience qualifications required for the  
10 issuance of certificates, the date for renewal of firm permits and certificates, and the  
11 continuing professional education required for renewal of certificates. The fee for  
12 issuance of a certificate may not exceed fifty dollars;
- 13 (4) Rules of professional conduct to control the quality and integrity of the practice of  
14 public accountancy by licensees, covering such areas as independence, integrity, and  
15 objectivity; competence and technical and professional standards; responsibilities to  
16 the public; and responsibilities to clients;
- 17 (5) Rules governing the manner and circumstances of use by holders of certificates who  
18 do not practice public accountancy, as defined under this chapter, of the titles  
19 certified public accountant and CPA;
- 20 (6) Rules specifying procedures and fees, not to exceed fifty dollars, for registration of  
21 certificate holders who do not practice public accountancy, as defined under this  
22 chapter;
- 23 (7) Rules governing the manner and circumstances of use by holders of licenses issued  
24 under prior law who do not practice public accountancy, as defined under this

- 1 chapter, of the titles public accountant and PA;
- 2 (8) Rules specifying procedures and fees, not to exceed fifty dollars, for registration of
- 3 license holders who do not practice public accountancy, as defined under this
- 4 chapter;
- 5 (9) Rules regarding peer review pursuant to this chapter;
- 6 (10) Rules specifying peer review administrative fees, not to exceed one hundred twenty-
- 7 five dollars;
- 8 (11) Rules specifying procedures and fees, not to exceed fifty dollars for required peer
- 9 review documentation not filed in a timely manner;
- 10 (12) Rules specifying fees for examination and reexamination, not to exceed three
- 11 hundred fifty dollars per examination section, and issuance of a certificate, not to
- 12 exceed fifty dollars;
- 13 (13) Rules specifying procedures and fees, not to exceed fifty dollars, for proctoring
- 14 applicants from another jurisdiction;
- 15 (14) Rules specifying the procedures and fees, not to exceed sixty-five dollars for each
- 16 person holding a certificate to practice, plus fifty dollars for each firm office
- 17 practicing public accountancy in this state, for initial issuance or renewal of a firm
- 18 permit;
- 19 (15) Rules governing the application and fees for a modification of a disciplinary action,
- 20 not to exceed one thousand dollars, or reissue of a certificate, not to exceed one
- 21 hundred dollars, or firm permit, not to exceed sixty-five dollars for each person
- 22 holding a certificate to practice, plus one hundred dollars for each firm office
- 23 practicing public accountancy in this state;
- 24 (16) Rules governing the methods, eligibility, and requirements for applying for

- 1 examination and reexamination;
- 2 (17) Rules specifying procedures and fees for renewal of certificates, not to exceed one  
3 hundred dollars, and firm permits, not to exceed sixty-five dollars for each person  
4 holding a certificate to practice, plus one hundred dollars for each firm office  
5 practicing public accountancy in this state not filed in a timely manner;
- 6 (18) Rules specifying procedures and fees, not to exceed twenty-five dollars, for  
7 replacement of a certificate or permit;
- 8 (19) Rules specifying methods and requirements for conducting the examination;
- 9 (20) Rules specifying methods, eligibility, and requirements of applying for a certificate;
- 10 (21) Rules specifying procedures and fees for issuance of certificates, not to exceed one  
11 hundred dollars, and firm permits, not to exceed sixty-five dollars for each person  
12 holding a certificate to practice, plus one hundred dollars for each firm office  
13 practicing public accountancy in this state, not filed within the required period of  
14 time;
- 15 (22) Rules defining active and inactive status of both certificate and PA license holders  
16 who are not practicing public accountancy; and
- 17 (23) Rules specifying procedures and fees, not to exceed one hundred dollars, on  
18 substantial equivalency.

19 Section 41. That § 36-20B-17 be amended to read as follows:

20 36-20B-17. The board may charge, or provide for a third-party administering the  
21 examination to charge, each applicant a fee, in an amount, not to exceed three hundred fifty  
22 dollars, prescribed by the board, by rule promulgated pursuant to chapter 1-26, for each section  
23 of the examination or reexamination taken by the applicant.

24 Section 42. That § 36-20B-28 be amended to read as follows:

1       36-20B-28. The board shall charge a fee for each application for initial issuance or renewal  
2 of a certificate under this chapter in an amount, not to exceed one hundred dollars, prescribed  
3 by the board, by rule promulgated pursuant to chapter 1-26.

4       Section 43. That § 36-20B-37 be amended to read as follows:

5       36-20B-37. The board shall charge a fee for each application for initial issuance or renewal  
6 of a permit in an amount, not to exceed sixty-five dollars for each person holding a certificate  
7 to practice, plus fifty dollars for each firm office practicing public accountancy in this state,  
8 prescribed by the board, by rule promulgated pursuant to chapter 1-26.

9       Section 44. That § 36-20B-67 be amended to read as follows:

10       36-20B-67. ~~An~~ Any individual whose principal place of business is not in this state having  
11 a valid certificate or license as a certified public accountant from any state which the board ~~or~~  
12 ~~its designee~~ has not verified to be in substantial equivalence with the licensure requirements of  
13 this chapter shall be presumed to have qualifications substantially equivalent to this state's  
14 requirements and shall have all the privileges of certificate holders and licensees of this state  
15 without the need to obtain a certificate or permit under this chapter. However, such individuals  
16 shall notify the board of their intent to enter the state under this provision completing procedures  
17 and paying fees, not to exceed one hundred fifteen dollars, specified by the board and  
18 promulgated by rule pursuant to chapter 1-26.

19       Section 45. That § 36-21A-38 be amended to read as follows:

20       36-21A-38. No license may be granted to a corporation, limited liability company,  
21 partnership or association, unless the corporation, limited liability company, partnership or  
22 association designates one or more qualifying brokers who own a substantial interest in and  
23 represent the corporation, partnership or association. The qualifying broker shall sign the  
24 application for the license. Upon the termination of a qualifying broker's affiliation with the

1 firm, the firm shall name one or more new qualifying brokers and notify the commission in  
2 writing. The application fee for a firm license shall be set out by rule promulgated by the  
3 commission pursuant to chapter 1-26 and may not exceed one hundred dollars.

4 Section 46. That § 36-21A-60 be amended to read as follows:

5 36-21A-60. Fees include the following:

- 6 (1) Certificate of licensee, a fee ~~of~~ not to exceed fifteen dollars;
- 7 (2) For each additional office or place of business, a biennial fee ~~of~~ not to exceed thirty  
8 dollars;
- 9 (3) For each change of office or place of business, a fee ~~of~~ not to exceed fifteen dollars;
- 10 (4) For each statement of registration of change of association, a fee ~~of~~ not to exceed  
11 fifteen dollars; and
- 12 (5) For each duplicate license, if the original license is lost or destroyed and affidavit  
13 made thereof, a fee ~~of~~ not to exceed fifteen dollars.

14 Fees shall be set by the commission by rules promulgated pursuant to chapter 1-26.

15 Section 47. That § 36-21A-61 be amended to read as follows:

16 36-21A-61. A person or firm licensed either actively or inactively under this chapter shall  
17 register every two years with the commission and pay a fee set by rule promulgated by the  
18 commission pursuant to chapter 1-26 not to exceed two hundred dollars. The application for  
19 renewal of a license shall be made to the commission by November thirtieth of the year the  
20 current license expires. Failure of a person to register results in cancellation of the license on  
21 December thirty-first. The license may be reinstated by filing a new application and requalifying  
22 as provided by this chapter.

23 Section 48. That § 36-21A-66 be amended to read as follows:

24 36-21A-66. A licensee who fails to file an application and fee for biennial registration may

1 suspend the cancellation of ~~his~~ the license by filing a late registration application and a fee in  
2 ~~the~~ an amount of not to exceed twenty dollars for each month or fraction of a month that has  
3 passed since November thirtieth. The fee shall be set by the commission by rule promulgated  
4 pursuant to chapter 1-26. However, no late application may be accepted by the commission after  
5 June thirtieth.

6 Section 49. That § 36-24-21.1 be amended to read as follows:

7 36-24-21.1. The board shall issue a license to any applicant who meets the requirements of  
8 this section and pays the application fee set by the board, by rule promulgated pursuant to  
9 chapter 1-26, not to exceed three hundred fifty dollars.

10 Section 50. That § 36-24-24.3 be amended to read as follows:

11 36-24-24.3. The board shall issue a provisional audiology license to ~~an~~ any applicant who:

- 12 (1) Except for the postgraduate professional experience, meets the academic, practicum,  
13 and examination requirements of this chapter;
- 14 (2) Applies to the board on a form prescribed by the board, with a plan for the content  
15 of the postgraduate professional experience; and
- 16 (3) Pays to the board the application fee for a provisional license not to exceed one  
17 hundred fifty dollars set by the board by rule promulgated pursuant to chapter 1-26.

18 A person holding a provisional audiology license is authorized to practice audiology only  
19 while working under the supervision of a licensed audiologist under the provisions of this  
20 chapter. The term for provisional audiology licenses and the conditions for renewal shall be  
21 determined by the board by rules promulgated pursuant to chapter 1-26.

22 Section 51. That § 36-24-25.1 be amended to read as follows:

23 36-24-25.1. Pending board approval, the board may issue a hearing aid dispensing license  
24 or audiology license to an applicant holding a valid license from another state in the applicant's

1    respective professional area who:

- 2       (1)    Applies to the board on a form prescribed by the board;
- 3       (2)    Pays to the board the application fee not to exceed three hundred fifty dollars set by
- 4            the board by rule promulgated pursuant to chapter 1-26;
- 5       (3)    Shows proof of current valid professional licensure;
- 6       (4)    Holds a license from a state with equivalent licensure standards; and
- 7       (5)    Is practicing audiology or hearing aid dispensing in the state in which the license was
- 8            issued.

9       Section 52. That § 36-24-28.1 be amended to read as follows:

10      36-24-28.1. A license or provisional license issued under this chapter expires annually at a

11   time specified by rules promulgated by the board pursuant to chapter 1-26. A person licensed

12   under this chapter shall:

- 13      (1)    Pay a renewal license fee established by the board, by rule promulgated pursuant to
- 14            chapter 1-26, not to exceed three hundred fifty dollars;
- 15      (2)    Submit an application for renewal on a form prescribed by the board; and
- 16      (3)    Meet the continuing education requirements established by the board.

17      Licensees are granted a grace period of thirty days beyond the expiration date of the license

18   to renew retroactively as long as licensees are otherwise eligible and pay to the board the

19   renewal fee ~~not to exceed three hundred fifty dollars~~ and any late fee not to exceed one hundred

20   dollars set by the board, by rule promulgated pursuant to chapter 1-26.

21      Section 53. That § 36-24-29.1 be amended to read as follows:

22      36-24-29.1. A licensee who fails to renew by the end of the thirty-day grace period may have

23   the license reinstated if:

- 24      (1)    The person submits an application for reinstatement to the board within three years

1 after the expiration date of the license;

2 (2) The person meets the requirements established by the board as conditions for license  
3 renewal; and

4 (3) The person pays to the board a reinstatement fee that equals the renewal fee ~~not to~~  
5 ~~exceed three hundred fifty dollars~~ in effect on the last regular renewal date  
6 immediately preceding the date of reinstatement, plus any late fee not to exceed one  
7 hundred dollars set by the board, by rule promulgated pursuant to chapter 1-26.

8 Any person who fails to renew a license within three years from the expiration date may not  
9 have the license reinstated. The person may apply for and obtain a new license on conditions  
10 of the requirements of this chapter and pay to the board the appropriate fees.

11 Section 54. That § 36-24-29.2 be amended to read as follows:

12 36-24-29.2. A suspended license is subject to expiration and may be renewed as provided  
13 in this chapter, but such renewal does not entitle the licensee, while the license remains  
14 suspended and until it the license is reinstated, to engage in the licensed activity or in any other  
15 conduct or activity in violation of the order of judgment by which the license was suspended.

16 A license revoked on disciplinary grounds is subject to expiration as provided in this  
17 chapter, ~~but it~~ and the license may not be renewed. If such license is reinstated after its  
18 expiration, the licensee, as a condition of reinstatement, shall pay a reinstatement fee ~~that shall~~  
19 equal to the renewal fee ~~not to exceed three hundred fifty dollars~~ in effect on the last regular  
20 renewal date immediately preceding the date of reinstatement, plus any late fee not to exceed  
21 one hundred dollars set by the board, by rule promulgated pursuant to chapter 1-26.

22 Section 55. That § 36-24-46 be amended to read as follows:

23 36-24-46. The board may promulgate rules pursuant to chapter 1-26 to establish application  
24 fees, license fees, provisional license fees, renewal fees, penalty fees, reciprocity fees, and late

1 fees. All fees provided under this chapter are nonrefundable. No fee may exceed three hundred  
2 fifty dollars.

3 The board may also promulgate rules pursuant to chapter 1-26 for the qualification of  
4 applicants, issuance and renewal of licenses, and requirements for continuing education.

5 Section 56. That § 36-25-19 be amended to read as follows:

6 36-25-19. Application for a plumber's permit shall be made to the commission, accompanied  
7 by the proper fee. Unless the applicant is entitled to a renewal he shall be registered by the  
8 commission only after satisfactorily passing an examination showing fitness to practice his  
9 trade. Examinations may be held in conjunction with any quarterly meeting of the commission.

10 The commission may promulgate rules, pursuant to chapter 1-26, to establish reexamination  
11 fees for: plumbing contractor, plumber, water conditioning and treatment plumbing contractor,  
12 water conditioning and treatment plumbing installer, appliance plumbing contractor, appliance  
13 plumbing installer, sewer and water plumbing contractor, sewer and water plumbing apprentice  
14 installer, manufactured and mobile home contractor, manufactured and mobile home installer,  
15 manufactured and mobile home apprentice, underground irrigation contractor, underground  
16 irrigation installer and underground irrigation installer apprentice. No fee may exceed one  
17 hundred dollars.

18 Section 57. That § 36-25-19.1 be amended to read as follows:

19 36-25-19.1. The commission shall collect a plumbing permit fee from any person  
20 responsible for the installation of plumbing work. The plumbing inspection fee shall include the  
21 fee for a plumbing installation certificate, plus the appropriate fees for the plumbing fixtures to  
22 be inspected. The maximum fee for permits in a single-family dwelling unit is fifty dollars. The  
23 maximum fee for permits in a multiple-dwelling unit or public building is two hundred dollars.  
24 The commission shall establish by rule ~~adopted~~ promulgated pursuant to chapter 1-26 the fee

1 for the plumbing installation certificate and the fees for inspections of plumbing fixtures.

2 Section 58. That § 36-25-22 be amended to read as follows:

3 36-25-22. The commission shall register and issue a permit to applicants who have  
4 successfully qualified for such permit under the provisions of this chapter and upon payment  
5 of the fee herein provided. Permits shall expire December thirty-first of each year, but may be  
6 renewed upon application made not later than the following January thirty-first.

7 The commission shall promulgate rules, pursuant to chapter 1-26, to establish the renewal  
8 of license fees for: plumbing contractor, plumber, water conditioning plumbing installer  
9 apprentice, water conditioning and treatment plumbing contractor, water conditioning plumbing  
10 installer, appliance installation plumbing contractor, appliance plumbing installer, appliance  
11 plumbing installer apprentice, sewer and water installation plumbing contractor, sewer and  
12 water plumbing installer, sewer and water plumbing installer apprentice, manufactured and  
13 mobile home contractor, manufactured and mobile home installer, manufactured and mobile  
14 home apprentice, underground irrigation contractor, underground irrigation installer and  
15 underground irrigation installer apprentice. No fee may exceed two hundred fifty dollars.

16 Section 59. That 36-25-22.1 be amended to read as follows:

17 36-25-22.1. Any person who, before June 30, 1994, furnishes satisfactory evidence to the  
18 commission that ~~he~~ the person was engaged in business as an underground irrigation contractor  
19 or an underground irrigation installer between January 1, 1993, and July 1, 1993, in this state  
20 shall be registered without examination, upon payment of ~~fees as a fee, not to exceed one~~  
21 hundred fifty dollars, established by the commission by rules ~~adopted~~ promulgated pursuant to  
22 chapter 1-26.

23 Section 60. That § 36-25-24 be amended to read as follows:

24 36-25-24. Fees for permits for plumbing contractors and plumbers shall be promulgated in

1 rules by the commission, which fees shall be payable prior to taking the examination for the first  
2 time.

3 There ~~shall be~~ is no fee for a plumber's apprentice ~~provided if~~ such person ~~shall be~~ is  
4 actively engaged in the trade of an apprentice plumber as defined in this chapter, but no person  
5 is entitled to such permit for longer than four years.

6 The fee for a temporary permit shall be as determined by the commission. The commission  
7 shall promulgate rules, pursuant to chapter 1-26, to establish initial examination and license fees  
8 and temporary license fees for: plumbing contractor, plumber, water conditioning and treatment  
9 plumbing contractor, water conditioning plumbing installer, appliance installation plumbing  
10 contractor, appliance plumbing installer, sewer and water plumbing contractor, sewer and water  
11 plumbing installer, manufactured and mobile home contractor, manufactured and mobile home  
12 installer, manufactured and mobile home apprentice, underground irrigation contractor,  
13 underground irrigation installer and underground irrigation installer apprentice. No fee may  
14 exceed one hundred dollars.

15 Section 61. That § 36-26-19 be amended to read as follows:

16 36-26-19. The fees to be paid by an applicant to determine fitness to receive a license to  
17 practice social work shall be set by the board.

18 The fees shall be set in rules promulgated pursuant to chapter 1-26 in the following areas:  
19 for a biennial application, for reciprocity without examination, for the biennial renewal of a  
20 license, for examination or reexamination, for a temporary license, for a duplicate license, and  
21 for a late fee assessed after a license forfeiture. No fee may exceed three hundred dollars.

22 Section 62. That § 36-27A-19 be amended to read as follows:

23 36-27A-19. The application fee for a license to practice psychology shall be set by the Board  
24 of Examiners of Psychologists in rules ~~adopted~~ promulgated pursuant to chapter 1-26. The fee

1 may not exceed three hundred dollars. The application fee includes the oral examination  
2 required by this chapter. The applicant shall pay fees for the written national examination and  
3 any reexamination directly to the national examination company.

4 Section 63. That § 36-27A-20 be amended to read as follows:

5 36-27A-20. An applicant who fails to pass the oral examination required by this chapter is  
6 entitled to reexamination within six months upon payment of an additional fee, not to exceed  
7 two hundred dollars, to be set by the Board of Examiners of Psychologists in rules ~~adopted~~  
8 promulgated pursuant to chapter 1-26. One reexamination exhausts the privilege under the  
9 original application. An applicant who fails to pass the written examination required by this  
10 chapter is entitled to reexamination within six months upon payment of an additional fee  
11 directly to the national examination company. One reexamination exhausts the privilege under  
12 the original application.

13 Section 64. That § 36-27A-22.1 be amended to read as follows:

14 36-27A-22.1. After an applicant passes the oral and written examinations, ~~he~~ the applicant  
15 shall pay a fee for initial licensure set by the Board of Examiners of Psychologists in rules  
16 ~~adopted~~ promulgated pursuant to chapter 1-26, not to exceed three hundred fifty dollars.

17 Section 65. That § 36-27A-24 be amended to read as follows:

18 36-27A-24. The license shall be renewed annually by payment of a fee, not to exceed three  
19 hundred fifty dollars, to be set by the Board of Examiners of Psychologists in rules ~~adopted~~  
20 promulgated pursuant to chapter 1-26. The failure of a licensee to renew ~~his~~ the license by the  
21 first day of July each year constitutes a forfeiture. However, a person who forfeits his license  
22 may have it restored by making written application and payment of the required renewal fee  
23 prior to the first day of January of the next year, following notification from the board.

24 Section 66. That § 36-27A-29.1 be amended to read as follows:

1       36-27A-29.1. If payment of costs incurred in carrying out a license revocation or other  
2 disciplinary action prevents the Board of Examiners of Psychologists from meeting its other  
3 financial obligations, the board, upon the approval of a majority of its members, may assess each  
4 licensee a special fee to make up the deficit. The Board of Examiners of Psychologists shall set  
5 the special fee, not to exceed three hundred dollars a year, in rules ~~adopted~~ promulgated  
6 pursuant to chapter 1-26. If the special fee is assessed, a licensee is ineligible to renew ~~his~~ the  
7 license until ~~he pays~~ the payment of the fee.

8       Section 67. That § 36-28-15 be amended to read as follows:

9       36-28-15. Any person applying to be licensed as a nursing facility administrator shall pay  
10 an initial license fee in an amount set ~~in a~~ by rule promulgated by the board pursuant to chapter  
11 1-26, which may not exceed one hundred fifty dollars. The initial license fee shall be prorated  
12 to the next biennial renewal date according to rule promulgated by the board pursuant to chapter  
13 1-26.

14       Section 68. That § 36-28-18 be amended to read as follows:

15       36-28-18. A nursing facility administrator's license expires on December thirty-first  
16 biennially and is renewable biennially thereafter upon application to the board and payment of  
17 a biennial license fee set ~~in a~~ by rule promulgated by the board pursuant to chapter 1-26. The  
18 fee may not exceed one hundred fifty dollars.

19       Section 69. That § 36-28-18.1 be amended to read as follows:

20       36-28-18.1. The board may issue duplicate licenses ~~of biennial renewal~~ and may ~~adopt~~  
21 promulgate rules and set fees ~~therefore~~, which may not exceed fifty dollars, ~~in compliance with~~  
22 pursuant to chapter 1-26.

23       Section 70. That § 36-29-11 be amended to read as follows:

24       36-29-11. Any license issued by the Board of Medical and Osteopathic Examiners shall

1 expire on the first day of July of the first year following its issuance. A license may be renewed  
2 every year upon the payment of a fee ~~to be fixed set~~ by the board, by rule promulgated pursuant  
3 to chapter 1-26. The fee may not exceed fifty dollars.

4 Section 71. That § 36-31-12 be amended to read as follows:

5 36-31-12. The board shall prescribe and ~~publish~~ promulgate the following fees for the  
6 ~~following~~ by rule pursuant to chapter 1-26:

- 7 (1) Initial license fee;
- 8 (2) Renewal of license fee;
- 9 (3) Late renewal fee; and
- 10 (4) Limited permit fee.

11 These fees shall be sufficient to cover the activities and responsibilities of the board but ~~shall~~  
12 may not exceed the sum of fifty dollars.

13 Section 72. That § 36-32-19 be amended to read as follows:

14 36-32-19. Any applicant failing to pass the examination provided by this chapter ~~shall be~~  
15 is entitled within six months to a reexamination upon payment of an additional fee, not to  
16 exceed one hundred dollars, to be promulgated by the board pursuant to chapter 1-26, ~~but,~~  
17 However, two such reexaminations shall exhaust the privilege under the original application.

18 Section 73. That § 36-32-19.1 be amended to read as follows:

19 36-32-19.1. ~~An~~ Any applicant failing to pass the examination required for licensed  
20 professional counselor-mental health is entitled to a reexamination within six months upon  
21 payment of an additional fee, not to exceed one hundred dollars, to be promulgated by the board  
22 pursuant to chapter 1-26. However, two such reexaminations exhaust the privilege under the  
23 original application.

24 Section 74. That § 36-32-20 be amended to read as follows:

1       36-32-20. Any license issued by the board requires renewal by the last day of December of  
2 each year in the manner and upon the payment of a fee, not to exceed one hundred dollars,  
3 established by the board by rules promulgated pursuant to chapter 1-26. Any licensee failing to  
4 renew a license prior to January first may be required to pay a late fee, not to exceed one  
5 hundred dollars, as prescribed in rules promulgated by the board. Any license not renewed by  
6 July first is inactive.

7       Section 75. That § 36-32-26 be amended to read as follows:

8       36-32-26. The board may promulgate rules pursuant to chapter 1-26 to set standards for  
9 professional practice and establish procedures and fees for applications, licensure, license  
10 renewal, reciprocal license, duplicate license, eligibility, continuing education, supervision,  
11 examination for licensed professional counselors and licensed professional counselors--mental  
12 health.

13       Section 76. That § 36-33-9 be amended to read as follows:

14       36-33-9. An applicant for a license as a licensed marriage and family therapist shall file an  
15 application with the board on a form, in the manner, and along with an application fee, not to  
16 exceed one hundred dollars, established by the board in rules promulgated pursuant to chapter  
17 1-26. The board shall issue a license as a marriage and family therapist to an applicant who pays  
18 the license fee and furnishes the board with satisfactory evidence that:

- 19       (1) The applicant is at least twenty-one years of age;
- 20       (2) The applicant is of good moral character;
- 21       (3) The applicant has received a master's or doctoral degree which consists of at least  
22             forty-eight semester credit hours in marriage and family therapy from a program  
23             accredited by the Commission on Accreditation for Marriage and Family Therapy  
24             Education, or a program with specialty training in marriage and family counseling or

1 therapy which is accredited by the Council for Accreditation of Counseling and  
2 Related Educational Programs, or a graduate degree from a regionally accredited  
3 educational institution and an equivalent course of study as approved by the board  
4 which meets the standards of the American Association for Marriage and Family  
5 Therapy. The course of study shall include:

6 (a) Marriage and family studies (3 course, 9 semester credit minimum):

7 Introductory systems theory, family development, family systems (marital,  
8 sibling, individual subsystems), special family issues, gender and cultural  
9 issues, all with major focus from a systems theory orientation;

10 (b) Marriage and family therapy (3 course, 9 semester credit minimum):

11 Advanced systems theory and interventions, major systemic marriage and  
12 family treatment approaches, (structural, strategic, neoanalytic (object  
13 relations), behavioral marriage and family therapy, communications, sex  
14 therapy, etc.);

15 (c) Human development (3 course, 9 semester credit minimum): At least one

16 course in psychopathology-abnormal behavior is required and at least one  
17 course in assessment is required. The third course may be selected from  
18 human development (normal and abnormal), personality theory, or human  
19 sexuality;

20 (d) Professional studies (1 course, 3 semester credit minimum): Professional

21 ethics as a therapist including legal and ethical responsibilities and liabilities,  
22 family law, etc;

23 (e) Research (1 course, 3 semester credit minimum): Research course in marriage

24 and family studies and therapy including research design, methodology,

1 statistics;

2 (f) Practicum (supervised clinical practice), one year minimum during graduate  
3 work: Fifteen hours per week, approximately 8 to 10 hours in direct clinical  
4 contact with individuals, couples, and families. Minimum of three hundred  
5 client contact hours required;

6 (4) The applicant has successfully completed (a) at least two years of supervised  
7 professional work experience in marriage and family therapy following receipt of the  
8 first qualifying graduate degree and the practicum required as part of the course of  
9 study, and (b) at least two hundred hours of supervision of one thousand seven  
10 hundred hours of marriage and family therapy conducted in face-to-face contact with  
11 individuals, couples, and families including supervision in the diagnosis of individual  
12 pathology. Only supervised clinical contact may be credited for this requirement. At  
13 least one hundred of the two hundred hours of supervision must be individual  
14 supervision. The supervisor shall be a licensed marriage and family therapist or the  
15 equivalent as determined by the board pursuant to chapter 1-26; and

16 (5) The applicant passes a written or oral examination, or both, as the board may  
17 prescribe by rules promulgated pursuant to chapter 1-26.

18 Section 77. That § 36-35-17 be amended to read as follows:

19 36-35-17. Any applicant for a license under this chapter shall submit a nonrefundable  
20 application fee of not to exceed one hundred dollars. Any person who has a license issued or  
21 renewed by the board shall submit a license fee in an amount ~~set by the board, but~~ not to exceed  
22 sixty-five dollars. Fees shall be set by the board by rule promulgated pursuant to chapter 1-26.

23 Section 78. That § 36-35-18 be amended to read as follows:

24 36-35-18. Any person holding a valid license under this chapter may obtain a certified

- 1 duplicate license by submitting a fee of to be set by the board by rule promulgated pursuant to
- 2 chapter 1-26, not to exceed twenty-five dollars for each certified duplicate.

# 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

319P0094

## HOUSE JUDICIARY ENGROSSED NO. **HB 1139** 2/4/2008

Introduced by: Representatives Feinstein, Ahlers, Cutler, Engels, Gillespie, Gosch, Hunt, Lust, and Nygaard and Senators Turbak Berry and Heidepriem

1 FOR AN ACT ENTITLED, An Act to revise certain provisions of the South Dakota Business  
2 Corporations Act regarding the issuance of shares and cumulative voting for directors.

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

4 Section 1. That § 47-1A-621 be amended to read as follows:

5 47-1A-621. The powers granted in this section to the board of directors may be reserved to  
6 the shareholders by the articles of incorporation.

7 ~~No corporation may issue stocks or bonds except for money, labor done, or money or~~  
8 ~~property, tangible or intangible, actually received.~~ The board of directors may authorize shares  
9 to be issued for consideration consisting of any tangible or intangible property or benefit to the  
10 corporation, including cash, promissory notes, services performed, contracts for services to be  
11 performed, or other securities of the corporation. Before the corporation may issue shares, the  
12 board of directors shall determine that the consideration received or to be received for shares  
13 to be issued is adequate. ~~That~~ The determination by the board of directors is conclusive insofar  
14 as the adequacy of consideration for the issuance of shares relates to whether the shares are



1 validly issued, fully paid, and nonassessable. When the corporation receives the consideration  
2 for which the board of directors authorized the issuance of shares, the shares issued therefore  
3 are fully paid and nonassessable.

4 The corporation may place in escrow any shares issued for a contract for future services or  
5 benefits or a promissory note, or make other arrangements to restrict the transfer of the shares,  
6 and may credit distributions in respect of the shares against their purchase price, until the  
7 services are performed, the note is paid, or the benefits received. If the services are not  
8 performed, the note is not paid, or the benefits are not received, the shares escrowed or restricted  
9 and the distributions credited may be cancelled in whole or part.

10 Section 2. That § 47-1A-728 be amended to read as follows:

11 47-1A-728. Unless otherwise provided in the articles of incorporation, directors are elected  
12 by a plurality of the votes cast by the shares entitled to vote in the election at a meeting at which  
13 a quorum is present. Shareholders may cumulate their votes for directors. However,  
14 shareholders may not cumulate their votes for director if the articles of incorporation include  
15 a statement that cumulative voting for directors is not allowed. The right to cumulate votes for  
16 directors means that the shareholders are entitled to multiply the number of votes that they are  
17 entitled to cast by the number of directors for whom they are entitled to vote and cast the  
18 product for a single candidate or distribute the product among two or more candidates.

19 Section 3. The provisions of Section 1 of this Act are effective on the date that Article XVII,  
20 section 8, of the South Dakota Constitution is repealed pursuant to the general election of 2008.

21 Section 4. The provisions of Section 2 of this Act are effective on the date that Article XVII,  
22 section 5, of the South Dakota Constitution is repealed pursuant to the general election of 2008.

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

454P0563

## HOUSE JUDICIARY ENGROSSED NO. **HB 1146** 2/4/2008

Introduced by: Representatives Feinstein, Cutler, Gosch, Hunt, and Van Norman and  
Senators Turbak Berry and Heidepriem

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding subsequent  
2 administration of an estate.

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

4 Section 1. That § 29A-3-1008 be amended to read as follows:

5 29A-3-1008. ~~If after an estate has been settled and the personal representative discharged,~~  
6 ~~or after a closing statement has been filed, and other property of the estate is discovered or any~~  
7 ~~necessary act remains unperformed, or for any other proper cause, the court, upon petition of~~  
8 ~~any interested person and upon notice as it directs, may appoint the same or a successor personal~~  
9 ~~representative, with or without bond, to administer and resolve the subsequently discovered~~  
10 ~~estate or issues~~ If other property of the estate is discovered after an estate has been settled and  
11 the personal representative discharged or after one year after a closing statement has been filed,  
12 the court, upon petition of any interested person and upon notice as it directs, may appoint the  
13 same or a successor personal representative to administer the subsequently discovered estate.  
14 If a new appointment is made, unless the court orders otherwise, the provisions of this code



- 1 apply as appropriate, but no claim previously barred may be asserted in the subsequent
- 2 administration.

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

615P0113

## SENATE TAXATION ENGROSSED NO. **HB 1182** - 1/30/2008

Introduced by: Representatives Noem, Burg, Faehn, Moore, Novstrup (Al), Olson (Russell),  
Olson (Ryan), Peters, Turbiville, and Weems and Senators Hansen (Tom),  
Abdallah, Bartling, McNenny, and Turbak Berry

1 FOR AN ACT ENTITLED, An Act to revise certain provisions related to property tax  
2 assessments for elderly and disabled persons.

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

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

5 10-6A-1. Terms as used in this chapter, ~~unless the context otherwise clearly requires,~~ mean:

6 (1) "Base year," for ~~those heads of households~~ any property owner who reached  
7 sixty-five years of age or became disabled in or prior to 1981, the base year is 1977.  
8 For ~~those heads of households who reach~~ any property owner who reaches sixty-five  
9 years of age or ~~become disabled subsequent to~~ becomes disabled after 1981, the base  
10 year is the year in which ~~they reach~~ the property owner reaches the age of sixty-five  
11 or the year in which the property owner becomes disabled. In the case of a surviving  
12 spouse, the base year is the year ~~which~~ that would have been the base year of the  
13 deceased spouse;

14 (2) "Base year assessment," the actual assessed value of a single-family dwelling in the



1 base year or, at the applicant's election, a year subsequent to the base year. The  
2 applicant need not have been the owner of the dwelling during the base year;

3 (3) "Department," the South Dakota Department of Revenue and Regulation;

4 (4) "Disabled," ~~persons receiving or having~~ any person who receives or is qualified to  
5 receive monetary payments, pursuant to Title II, X, XIV, or XVI of the Social  
6 Security Act, as amended, ~~and in effect on January 1, 1981 to January 1, 2008,~~ for all  
7 or part of the year for which a property tax assessment freeze application is made;

8 (5) ~~"Head of household," a married person, a single person, a widow or widower, or a~~  
9 ~~divorced person;~~

10 ~~(6)~~ "Household," the association of persons who live in the same dwelling, sharing its  
11 furnishings, facilities, and accommodations, but not including bona fide lessees,  
12 tenants, or roomers and boarders on contract;

13 ~~(7)~~(6) "Household income," all income received during the preceding calendar year by all  
14 persons of a household while members of the household;

15 ~~(8)~~(7) "Income," the sum of adjusted gross income as defined in the United States Internal  
16 Revenue Code of 1954, as amended, ~~and in effect on December 31, 1989 to~~  
17 January 1, 2008, and ~~all nontaxable income, including but not limited to IRA~~  
18 disbursements, the amount of capital gains excluded from adjusted gross income,  
19 alimony, support money, nontaxable strike benefits, cash public assistance and relief,  
20 the gross amount of any pension or annuity, including Railroad Retirement Act  
21 benefits and veterans disability pensions, all payments received under the federal  
22 social security and state unemployment insurance laws, nontaxable interest ~~received~~  
23 from the federal government or any of its instrumentalities, life insurance proceeds  
24 that exceed twenty thousand dollars, any gift or inheritance that exceeds five hundred

1 dollars, proceeds from a court action, any sale of a personal item that exceeds five  
2 hundred dollars, foster care income, and workers' compensation, and the gross  
3 amount of "loss of time" insurance, but not including gifts from nongovernmental  
4 sources, food stamps, or surplus foods or other relief in kind provided by a public  
5 agency;

6 (8) "Property owner," the owner of a dwelling as recorded by the register of deeds in the  
7 county where the dwelling is located. A joint tenant, an owner of a life estate, a  
8 beneficiary of a trust, and a vendee of a contract for deed as filed with the register of  
9 deeds in the county where the dwelling is located is considered to be an owner;

10 (9) "Real property tax assessment freeze," for tax purposes, the assessment of a  
11 single-family dwelling as recorded in the base year on the county assessment roll and  
12 held constant at that value;

13 (10) "Secretary," the secretary of the South Dakota Department of Revenue and  
14 Regulation;

15 (11) "Single-family dwelling," a house, condominium apartment, or manufactured home  
16 as defined in § 32-3-1 ~~which~~ that is assessed and taxed as a separate unit including  
17 the platted lot upon which the structure is situated or one acre, whichever is less, and  
18 the garage, whether attached or unattached;

19 (12) "Surviving spouse," the spouse of a deceased ~~head of household~~ property owner who  
20 has not remarried.

21 Section 2. That § 10-6A-2 be amended to read as follows:

22 10-6A-2. Any person making an application under the provisions of this chapter is entitled  
23 to a real property tax assessment freeze upon the person's single-family dwelling if the following  
24 conditions are met. The person:

1 (1) Has a household income of less than twenty thousand dollars if the household is a  
2 single-member household; ~~or~~

3 ~~(2)~~ Has or the person has a household income of less than twenty-five thousand dollars  
4 if the household is a multiple-member household; and

5 ~~(3)~~(2) Has ~~owned a single-family dwelling, in fee or by contract to purchase, for at least one~~  
6 ~~year and has~~ been a property owner and a resident of South Dakota for at least one  
7 year; and

8 ~~(4)~~(3) Has resided for at least two hundred days of the previous calendar year in the  
9 single-family dwelling; and

10 ~~(5)~~(4) Has established a base year.

11 The surviving spouse of a person who has previously qualified is entitled to the real property  
12 tax assessment freeze if the surviving spouse meets the other conditions of this chapter.

13 Beginning on January 1, 2005, the household income listed in ~~subdivisions (1) and (2)~~  
14 subdivision (1) of this section shall increase by the index factor. The index factor is the annual  
15 percentage change in the consumer price index for urban wage earners and clerical workers as  
16 computed by the Bureau of Labor Statistics of the United States Department of Labor for the  
17 year before the year immediately preceding the year of adjustment or the annual percentage  
18 change in federal social security payments for the preceding year, whichever is greater.

19 Section 3. That § 10-6A-4 be amended to read as follows:

20 10-6A-4. The application for the real property tax assessment freeze provided under this  
21 chapter shall be annually submitted on or before April first on forms prescribed by the secretary  
22 of revenue and regulation. The form shall be made available to the county treasurer who shall,  
23 upon request of an applicant, assist the applicant in completing the form. The property owner  
24 shall sign the certificate under penalty of perjury. A person failing to comply with the April first

1 deadline for the previous year, but otherwise qualifying for the real property tax assessment  
2 freeze provided under this chapter, may petition the board of county commissioners to  
3 recalculate the taxes based on the valuation the person would have received under this program  
4 and abate the difference in taxes.

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

7 Any person who receives a reduction in value due to false application for the real property  
8 tax assessment freeze by misrepresenting the facts as to the person's ownership or income shall  
9 be assessed the amount of tax reduction received due to the assessment freeze. The assessment  
10 is a perpetual lien on the property pursuant to § 10-21-33. The person is barred from receiving  
11 the assessment freeze reduction on any property in the state for the following three years.

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

805P0506

## HOUSE COMMERCE ENGROSSED NO. **HB 1210** - 2/4/2008

Introduced by: Representatives Rounds, Boomgarden, Engels, Novstrup (Al), Street, and Willadsen and Senators Napoli, Abdallah, Albers, Gant, Katus, and Turbak Berry

1 FOR AN ACT ENTITLED, An Act to prohibit recyclers, scrap metal dealers, or scrap yard  
2 operators from purchasing certain beer kegs.

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

4 Section 1. No recycler, scrap metal dealer, or scrap yard operator may purchase any metal  
5 beer keg, whether damaged or undamaged, except from the brewer or its authorized  
6 representative, if:

7 (1) The keg is clearly marked as the property of a brewery manufacturer; or

8 (2) The keg's identification markings have been made illegible.

9 A violation of this section is a Class 2 misdemeanor.



# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

497P0093

## HOUSE APPROPRIATIONS ENGROSSED NO. **HB 1221** - 2/4/2008

Introduced by: Representatives Faehn, Bradford, Brunner, Burg, Carson, Cutler, Dennert, Dreyer, Elliott, Feinstein, Gassman, Gillespie, Gilson, Glenski, Halverson, Hargens, Haverly, Jerke, Kirkeby, Koistinen, Lucas, Lust, McLaughlin, Miles, Noem, Novstrup (Al), Novstrup (David), Pederson (Gordon), Peters, Rausch, Sigdestad, Steele, Street, Van Etten, Van Norman, Vehle, Weems, and Willadsen and Senators Turbak Berry, Albers, Bartling, Dempster, Greenfield, Heidepriem, Hundstad, McCracken, Napoli, Olson (Ed), Peterson (Jim), and Smidt (Orville)

1 FOR AN ACT ENTITLED, An Act to create the postsecondary technical institute auxiliary fund  
2 and to provide continuing funding to the postsecondary technical institutes for the costs of  
3 maintenance and repair.

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

5 Section 1. There is hereby established within the state treasury the postsecondary technical  
6 institute auxiliary fund. The fund is a participating fund and shall be credited for all interest  
7 earned on fund balances. The Board of Education shall approve all expenditures from the  
8 postsecondary technical institute auxiliary fund. For purposes of administration, the fund shall  
9 be divided into three subfunds as follows:

10 (1) The postsecondary technical institute maintenance and repair subfund to fund the  
11 maintenance and repair of existing facilities;



1       (2)    The postsecondary technical institute new program subfund to fund the one-time  
2            costs associated with starting a new program or retooling a current program to meet  
3            a new or expanding need; and

4       (3)    The postsecondary technical institute equipment subfund to fund the replacement of  
5            old or outdated equipment being used in current programs.

6       Section 2. The South Dakota Board of Education, in coordination with the Bureau of  
7    Administration, shall determine the replacement value of all buildings located on the campuses  
8    of the postsecondary technical institutes. An amount equal to one and one half percent of the  
9    replacement value of the postsecondary technical institute buildings or one dollar, whichever  
10   is less, is hereby annually appropriated from the state general fund to the postsecondary  
11   technical institute maintenance and repair subfund established in section 1 of this Act for the  
12   purposes of funding items included in an annual prioritized maintenance and repair listing that  
13   is reviewed by the Bureau of Administration and approved by the Board of Education, provided,  
14   however, that the general fund revenues shall be offset by the amount of student fees deposited  
15   into this fund.

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

767P0099

## HOUSE APPROPRIATIONS ENGROSSED NO. **HB 1222** - 2/4/2008

Introduced by: Representatives Peters, Bradford, Brunner, Burg, Carson, Dennert, Dreyer, Elliott, Faehn, Feinstein, Gassman, Gillespie, Gilson, Glenski, Halverson, Hargens, Haverly, Jerke, Kirkeby, Koistinen, Lucas, Lust, McLaughlin, Miles, Noem, Novstrup (Al), Novstrup (David), Pederson (Gordon), Rausch, Sigdestad, Street, Van Etten, Van Norman, Vehle, Weems, Wick, and Willadsen and Senators Turbak Berry, Apa, Bartling, Greenfield, Heidepriem, Hundstad, Jerstad, McCracken, Napoli, Olson (Ed), Peterson (Jim), and Smidt (Orville)

1 FOR AN ACT ENTITLED, An Act to create the postsecondary technical institute auxiliary fund  
2 and to provide continuing funding from the future fund to the technical institutes for the  
3 start-up costs of new programs being created to meet workforce development needs.

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

5 Section 1. There is hereby established within the state treasury the postsecondary technical  
6 institute auxiliary fund. The fund shall be a participating fund and shall be credited for all  
7 interest earned on fund balances. The Board of Education shall approve all expenditures from  
8 the postsecondary technical institute auxiliary fund. For purposes of administration, the fund  
9 shall be divided into three subfunds as follows:

10 (1) The postsecondary technical institute maintenance and repair subfund to fund the  
11 maintenance and repair of existing facilities;



1       (2)    The postsecondary technical institute new program subfund to fund the one-time  
2            costs associated with starting a new program or retooling a current program to meet  
3            a new or expanding need; and

4       (3)    The postsecondary technical institute equipment subfund to fund the replacement of  
5            old or outdated equipment being used in current programs.

6       Section 2. On July first of each year or as soon thereafter as practicable, the commissioner  
7       of the Bureau of Finance and Management shall calculate an amount equal to ten percent of the  
8       total investment fees as defined in § 61-5-24 collected during the previous fiscal year. Upon  
9       notice of the amount calculated, the state treasurer shall transfer a sum equal to one-fourth of  
10       that amount from the employer's investment in South Dakota's future fund to the postsecondary  
11       technical institute new program subfund established in section 1 of this Act on each of the  
12       following dates: August fifteenth, November fifteenth, February fifteenth, and May fifteenth.  
13       However, the total amount transferred, when added to other transfers made during that fiscal  
14       year from the same fund to the postsecondary technical institute equipment subfund established  
15       in section 1 of this Act, may not exceed one dollar. The funds transferred to the postsecondary  
16       technical institute new program fund shall be used to assist with the creation of new programs  
17       to meet workforce development needs and promote economic development pursuant to § 61-5-  
18       24.2.

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

983P0100

## HOUSE APPROPRIATIONS ENGROSSED NO. **HB 1223** - 2/4/2008

Introduced by: Representatives Burg, Bradford, Brunner, Carson, Dennert, Dreyer, Elliott, Faehn, Feinstein, Gassman, Gillespie, Gilson, Glenski, Halverson, Hargens, Haverly, Jerke, Kirkeby, Koistinen, Lucas, Lust, McLaughlin, Miles, Noem, Novstrup (Al), Novstrup (David), Pederson (Gordon), Peters, Rausch, Sigdestad, Street, Van Etten, Van Norman, Vehle, Weems, Wick, and Willadsen and Senators Olson (Ed), Apa, Bartling, Greenfield, Heidepriem, Hundstad, Jerstad, McCracken, Napoli, Peterson (Jim), Smidt (Orville), and Turbak Berry

1 FOR AN ACT ENTITLED, An Act to create the postsecondary technical institute auxiliary fund  
2 and to provide continuing funding from the future fund to the technical institutes for the cost  
3 of replacing old or outdated equipment to meet workforce development needs.

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

5 Section 1. There is hereby established within the state treasury the postsecondary technical  
6 institute auxiliary fund. The fund shall be a participating fund and shall be credited for all  
7 interest earned on fund balances. The Board of Education shall approve all expenditures from  
8 the postsecondary technical institute auxiliary fund. For purposes of administration, the fund  
9 shall be divided into three subfunds as follows:

10 (1) The postsecondary technical institute maintenance and repair subfund to fund the  
11 maintenance and repair of existing facilities;



1       (2)    The postsecondary technical institute new program subfund to fund the one-time  
2            costs associated with starting a new program or retooling a current program to meet  
3            a new or expanding need; and

4       (3)    The postsecondary technical institute equipment subfund to fund the replacement of  
5            old or outdated equipment being used in current programs.

6       Section 2. On July first of each year or as soon thereafter as practicable, the commissioner  
7       of the Bureau of Finance and Management shall calculate an amount equal to ten percent of the  
8       total investment fees as defined in § 61-5-24.1 collected during the previous fiscal year. Upon  
9       notice of the amount calculated, the state treasurer shall transfer a sum equal to one-fourth of that  
10      amount from the employer's investment in South Dakota's future fund to the postsecondary  
11      technical institute equipment subfund established in section 1 of this Act on each of the  
12      following dates: August fifteenth, November fifteenth, February fifteenth, and May fifteenth.  
13      However, the amount transferred, when added to other transfers made during that fiscal year  
14      from the same fund to the postsecondary technical institute new program subfund established  
15      in section 1 of this Act, may not exceed one dollar. The funds transferred to the postsecondary  
16      technical institute equipment subfund shall be used to purchase new equipment to meet  
17      workforce development needs and promote economic development pursuant to § 61-5-24.2.

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

965P0433

## HOUSE APPROPRIATIONS ENGROSSED NO. **HB 1226** - 2/4/2008

Introduced by: Representative Haverly and Senator Apa

1 FOR AN ACT ENTITLED, An Act to provide funds to the postsecondary technical institutes.

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

3 Section 1. There is hereby appropriated from the general fund the sum of one dollar (\$1),  
4 or so much thereof as may be necessary, to the Department of Education for the purposes of  
5 fulfilling the mission of the postsecondary technical institutes.

6 Section 2. The secretary of education shall approve vouchers and the state auditor shall draw  
7 warrants to pay expenditures authorized by this Act.

8 Section 3. Any amounts appropriated in this Act not lawfully expended or obligated by June  
9 30, 2010, shall revert in accordance with § 4-8-21.



# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

929P0101

## HOUSE APPROPRIATIONS ENGROSSED NO. **HB 1227** - 2/4/2008

Introduced by: Representative Haverly and Senator Apa

1 FOR AN ACT ENTITLED, An Act to appropriate money to postsecondary technical institutes

2 for the maintenance and repair of buildings.

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 one dollar (\$1),  
5 or so much thereof as may be necessary, to the Department of Education for the maintenance  
6 and repair of postsecondary technical institute buildings.

7 Section 2. The secretary of the Department of Education shall approve vouchers and the  
8 state auditor shall draw warrants to pay expenditures authorized by this Act.



# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

660P0130

HOUSE STATE AFFAIRS

ENGROSSED NO. **HB 1245** - 2/4/2008

Introduced by: Representatives Hargens, Burg, Cutler, Deadrick, Dykstra, Faehn, Feinstein, Gillespie, Gilson, Hackl, Halverson, Heineman, Jerke, Juhnke, Krebs, Moore, Noem, Novstrup (Al), Olson (Russell), Peters, Pitts, Rave, Tidemann, Vanneman, and Willadsen and Senators Hansen (Tom), Albers, Bartling, Dempster, Greenfield, Heidepriem, Hoerth, Hundstad, Hunhoff, Nesselhuf, Olson (Ed), Peterson (Jim), Sutton, and Turbak Berry

1 FOR AN ACT ENTITLED, An Act to clarify certain purposes and characteristics of water  
2 development districts, to revise the boundaries of the Central Plains, East Dakota,  
3 Vermillion Basin, James River, and South Central water development districts, and to revise  
4 provisions related to the board of directors in the affected districts.

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

6 Section 1. That § 46A-3A-2 be amended to read as follows:

7 46A-3A-2. The Central Plains Water Development District is hereby established. The  
8 Central Plains Water Development District includes all of ~~Faulk, Hand, Hughes, Hyde, Potter,~~  
9 ~~and Sully counties and all municipalities that lie wholly or partially within the included area or~~  
10 ~~that are contiguous to the included area~~ Campbell, Walworth, Potter, Sully, Hughes, and Hyde  
11 counties.

12 Section 2. That § 46A-3A-3 be amended to read as follows:



1       46A-3A-3. The East Dakota Water Development District is hereby established. The East  
2 Dakota Water Development District includes all of ~~Minnehaha, Moody, Lake, Kingsbury,~~  
3 ~~Brookings, Hamlin, Deuel, Codington and Grant counties; Grafton, Belleview, Adams, Henden,~~  
4 ~~Howard, Clearwater, Canova and Vermillion townships in Miner County; and all municipalities~~  
5 ~~that are wholly or partially within the included area or that are contiguous to the included area~~  
6 Brookings, Codington, Deuel, Grant, Hamlin, Moody, Minnehaha, and Roberts counties;  
7 Cottonwood, Blaine, Thorp, Maydell, Mount Pleasant, Eden, Day, Elrod, Merton, Foxton, Lake,  
8 and Pleasant townships in Clark County; Liberty, Nutley, Kosciusko, Raritan, Grenville,  
9 Webster, Racine, Waubay, Rusk, Morton, Central Point, Highland, Wheatland, and Egeland  
10 townships in Day County; Badger township in Kingsbury County; all of Lake County except for  
11 Wayne, Concord, Winfred, Clarno, and Orland townships; and all municipalities that are wholly  
12 or partially within the included area or that are contiguous to the included area.

13       Section 3. That § 46A-3A-4 be amended to read as follows:

14       46A-3A-4. The James River Water Development District is hereby established. The James  
15 River Water Development District includes all of Brown, Spink, Beadle, Sanborn, Davison,  
16 Hanson, Hutchinson, Marshall, ~~and Yankton~~ Faulk, Hand, Edmunds, and McPherson counties;  
17 Farmington, Homer, Independence, Andover, Union, Lynn, Bristol, Kidder, Scotland, Valley,  
18 Butler, Oak, Troy, and York townships in Day County; Warren, Spring Valley, Ash, Woodland,  
19 Raymond, Garfield, Logan, Lincoln, Fordham, Darlington, Richland, Hague, and Rosedale  
20 townships in Clark County; LeSueur, Iroquois, Manchester, and Esmond townships in  
21 Kingsbury County; Redstone, Carthage, Miner, Green Valley, Clinton, Roswell, Beaver, and  
22 Rock Creek townships in Miner County; Pearl, Benton, Jefferson, and Bridgewater townships  
23 in McCook County; all of Yankton County except Mayfield, Turkey Valley, Marindahl, Volin,  
24 and Gayville townships; Pleasant Valley, Bristol, Belford, Cooper, Firesteel, Palatine,

1 Plankinton, Hopper, Pleasant Lake, Dudley, and Aurora townships in Aurora County; and all  
2 of Jerauld County except Marljar, Harmony, Crow, Pleasant, Logan, and Crow Lake townships.

3 Section 4. That § 46A-3A-5 be amended to read as follows:

4 46A-3A-5. The South Central Water Development District is hereby established. The South  
5 Central Water Development District includes all of Charles Mix, Brule, Buffalo, Bon Homme,  
6 Douglas, and Gregory counties; Patten, Lake, White Lake, Eureka, Gales, Crystal Lake,  
7 Washington, Center, and Truro townships in Aurora County; Marljar, Harmony, Crow, Pleasant,  
8 Logan, and Crow Lake townships in Jerauld county; and the portion of Lyman County south of  
9 the White River.

10 Section 5. That § 46A-3A-7.1 be amended to read as follows:

11 46A-3A-7.1. The Vermillion Basin Water Development District is hereby established. The  
12 Vermillion Basin Water Development District includes all of Turner and Clay counties; Collins  
13 and Washington townships in Clark County; all of Kingsbury County except Badger, Le Sueur,  
14 Iroquois, Manchester, and Esmond townships; Grafton, Belleview, Adams, Henden, Howard,  
15 Clearwater, Canova, and Vermillion townships in Miner County; Wayne, Concord, Winfred,  
16 Clarno, and Orland townships in Lake County; all of McCook County except Pearl, Benton,  
17 Jefferson, and Bridgewater townships; and Mayfield, Turkey Valley, Marindahl, Volin, and  
18 Gayville townships in Yankton County.

19 Section 6. That chapter 46A-3B be amended by adding thereto a NEW SECTION to read  
20 as follows:

21 For any water development district with boundaries affected by this Act, any director of the  
22 district who is in office on the effective date of this Act shall continue to serve as a director if  
23 the director remains a resident of the district. At the first general election after the effective date  
24 of this Act, for any water development district with boundaries affected by this Act, directors

1 shall be elected for all director positions in the district, regardless of whether or not any  
2 director's term has expired. The directors elected for the district at the general election shall be  
3 elected to serve for staggered terms. Thereafter, directors shall be elected to four-year terms at  
4 each subsequent general election to succeed those directors whose terms expire at the end of the  
5 year in which the election is held.

6 Section 7. That § 46A-3E-1 be amended to read as follows:

7 46A-3E-1. A water development district board of directors may levy taxes, not to exceed  
8 thirty cents per thousand dollars of taxable valuation in the district, for accomplishment of the  
9 purposes of chapters 46A-3A to 46A-3E, inclusive, and chapters 46A-1 and 46A-2. If an area  
10 is included in more than one water development district, that area's tax levy payable to each of  
11 the water development districts shall be determined by multiplying the greater of the  
12 overlapping water development districts' levies by each water development district's taxing  
13 fraction. Each water development district's taxing fraction is determined by dividing that water  
14 development district's proposed tax levy for the overlapped area by the sum of all water  
15 development districts' levies for the overlapped area. For purposes of chapter 10-13, any water  
16 development district for which boundaries are revised under this Act is considered a new taxing  
17 district created on the date specified pursuant to § 46A-3A-1.

18 Section 8. This Act is effective on January 1, 2009.

# 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

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

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

644P0188

SENATE TRANSPORTATION ENGROSSED NO. **SB**

**64** - 1/22/2008

Introduced by: Senators Napoli, Bartling, Duenwald, Heidepriem, Maher, McCracken, McNenny, Olson (Ed), Peterson (Jim), Schmidt (Dennis), and Sutton and Representatives Peters, Brunner, Hackl, Kirkeby, Lust, and Olson (Betty)

1 FOR AN ACT ENTITLED, An Act to provide certain provisions regarding the regulation of  
2 recreational park trailers.

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

4 Section 1. That subdivision (2) of § 10-45D-1 be amended to read as follows:

5 (2) "Campground," any property or premise kept, used, maintained, advertised, or held  
6 out to the public to be a place where sites are available for placing of tents, campers,  
7 trailers, recreational park trailers, mobile homes, or other mobile accommodations  
8 to transient guests. Campgrounds include city, county, and state-owned  
9 campgrounds, as well as concessionaires or contractors who manage or operate  
10 publicly owned campgrounds. The following constitute campgrounds: campgrounds,  
11 camping cabins, camping resorts, commercial picnic grounds, organizational camps,  
12 park units, recreational vehicle parks, trailer parks, and youth camps;

13 Section 2. That § 32-3-1 be amended to read as follows:



1 32-3-1. Terms used in chapters 32-3 to 32-5B, inclusive, mean:

2 (1) "Commercial motor vehicle," any motor vehicle used or maintained for the  
3 transportation of persons or property for hire, compensation, or profit, or designed,  
4 used, or maintained primarily for the transportation of property, and not specifically  
5 excluded under § 32-9-3;

6 (2) "Component part," any part of a motor vehicle, trailer, or semitrailer other than a tire,  
7 having a vehicle identification number;

8 (3) "Dealer," any person who, for commission or with intent to make a profit or gain,  
9 sells, exchanges, rents with option to purchase, offers or attempts to negotiate a sale  
10 or exchange of new, or new and used vehicles, or who is engaged wholly or in part  
11 in the business of selling new, or new and used vehicles, whether or not such vehicles  
12 are owned by that person;

13 (4) "Department," Department of Revenue and Regulation;

14 (4A) "Gross vehicle weight rating," the value specified by the manufacturer as the loaded  
15 weight of a single vehicle;

16 (5) "Junking certificate," a certificate of ownership, which may not be restored to a title  
17 document which allows highway use, issued by the department to the owner of a  
18 vehicle which is going to be dismantled and sold for parts;

19 (6) "Manufactured home," a structure, transportable in one or more sections, which is  
20 eight body feet or more in width or forty body feet or more in length in the traveling  
21 mode, or is three hundred twenty or more square feet when erected on a site; which  
22 is built on a permanent chassis and designed to be used as a dwelling, with or without  
23 a permanent foundation, when connected to the required utilities; and which contains  
24 the plumbing, heating, air conditioning, and electrical systems therein. The term

1 includes any structure which meets all the requirements of this subdivision and any  
2 other structure which has been certified by the secretary of housing and urban  
3 development. The term does not include a recreational park trailer;

4 (7) "Manufacturer," any person, firm, corporation, limited liability company, or  
5 association engaged in the manufacture of new motor vehicles as a regular business;

6 (8) "Mobile home," a movable or portable unit, designed and constructed to be towed on  
7 its own chassis (comprised of frame and wheels) , and designed to be connected to  
8 utilities for year-round occupancy. The term includes:

9 (a) Units containing parts that may be folded, collapsed, or telescoped when being  
10 towed and that may be expanded to provide additional cubic capacity; and

11 (b) Units composed of two or more separately towable components designed to  
12 be joined into one integral unit capable of being separated again into the  
13 components for repeated towing.

14 The term does not include a recreational park trailer;

15 (9) "Moped," a motor driven cycle equipped with two or three wheels. If a combustion  
16 engine is used, the maximum piston or rotor displacement shall be fifty cubic  
17 centimeters regardless of the number of chambers in such power source. The power  
18 source shall be equipped with a power drive system that functions directly or  
19 automatically only, not requiring clutching or shifting by the operator after the drive  
20 system is engaged;

21 (10) "Motorcycle," includes motorcycles, motorbikes, mopeds, bicycles with motor  
22 attached, and all motor operated vehicles of the bicycle or tricycle type, whether the  
23 motive power be a part thereof or attached thereto, and having a saddle or seat with  
24 the driver sitting astride or upon it, or a platform on which the driver stands, but

- 1           excluding a tractor;
- 2       (11) "Motor vehicle," automobiles, motor trucks, motorcycles, house trailers, trailers, and
- 3           all vehicles propelled by power other than muscular power, except traction engines,
- 4           road rollers, farm wagons, freight trailers, vehicles that run only on rails or tracks,
- 5           and off-road vehicles as defined in § 32-20-1;
- 6       (12) "New motor vehicle," any motor vehicle to which a manufacturer's statement of
- 7           origin has not been transferred, or is a motor vehicle on which title was issued from
- 8           the manufacturer's statement of origin or manufacturer's certificate of origin and is
- 9           still in the name of the first person who took title to the vehicle;
- 10      (13) "Noncommercial motor vehicle," any motor vehicle not classified as a commercial
- 11           motor vehicle;
- 12      (14) "Noncommercial trailer or semitrailer," any trailer or semitrailer not used or
- 13           maintained for the transportation of persons or property for hire, compensation, or
- 14           profit;
- 15      (14A) "Notation," a physical or electronic process of recording a lien on a certificate of title,
- 16           a manufacturer's statement of origin, or a manufacturer's certificate of origin;
- 17      (15) "Off-road vehicle," any self-propelled, two or more wheeled vehicle designed
- 18           primarily to be operated on land other than a highway and includes, ~~but is not limited~~
- 19           ~~to,~~ all terrain vehicles, dune buggies, and any vehicle whose manufacturer's statement
- 20           of origin (MSO) or manufacturer's certificate of origin (MCO) states that the vehicle
- 21           is not for highway use. ~~Off-road vehicle~~ The term does not include a farm vehicle as
- 22           defined in this section;
- 23      (16) "Owner," any person, firm, association, or corporation renting a motor vehicle or
- 24           having the exclusive use thereof, under a lease or otherwise, for a period greater than

1 thirty days; as between contract vendor and contract vendee, the term "owner" shall  
2 refer to the contract vendee, unless the contrary clearly appears from the context of  
3 chapters 32-3 to 32-5B, inclusive, or a person having legal possession or title;

4 (17) "Rebuilt vehicle," any motor vehicle, trailer, or semitrailer that has been rebuilt by  
5 the addition or deletion of assemblies, subassemblies, parts, or component parts so  
6 that upon gross visual examination it does not appear to be the vehicle described in  
7 the certificate of title last issued for the vehicle, or whose title has been marked as  
8 "rebuilt" by this state or another state or jurisdiction;

9 (17A) "Recreational park trailer," a vehicle that is primarily designed to provide temporary  
10 living quarters for recreational, camping, or seasonal use and which:

11 (a) Is built on a single chassis mounted on wheels;

12 (b) Has a gross trailer area not exceeding four hundred square feet in the setup  
13 mode;

14 (c) Is certified by the manufacturer as complying with American National  
15 Standards Institute Standard No. A119.5 in effect on January 1, 2008; and

16 (d) Has at least a seventeen digit identification number and the manufacturer has  
17 designated the vehicle as a recreational park model on the manufacturer  
18 statement of origin;

19 (18) "Recreational vehicle," a vehicular portable structure built on a chassis designed to  
20 be used as a temporary dwelling for travel, recreational, ~~and~~ vacation, or seasonal  
21 uses, permanently identified as "a travel trailer" or a recreational park trailer by the  
22 manufacturer of the trailer;

23 (19) "Road tractor," any motor vehicle designed and used for drawing other vehicles,  
24 except farm or logging tractors used exclusively for farming or logging, and not so

1 constructed as to carry any load thereon either independently or any part of the  
2 weight of a vehicle or load so drawn;

3 (20) "Secretary," secretary of revenue and regulation;

4 (21) "Semitrailer," any vehicle of the trailer type, equipped with a kingpin assembly,  
5 designed and used in conjunction with a fifth wheel connecting device on a motor  
6 vehicle constructed so that some part of its weight and that of its load rests upon or  
7 is carried by another vehicle;

8 (22) "State," includes the territories and the federal districts of the United States;

9 (23) "Trailer," any vehicle without motive power designed for carrying property or  
10 passengers wholly on its own structure and for being drawn by a motor vehicle;

11 (24) "Truck tractor," any motor vehicle designed and used primarily for drawing other  
12 vehicles and not so constructed as to carry a load other than a part of the weight of  
13 the vehicle and load so drawn;

14 (25) "Used vehicle," any motor vehicle to which title has been issued to someone other  
15 than the first person who took title to the motor vehicle from the manufacturer's  
16 statement of origin or manufacturer's certificate of origin; and

17 (26) "Vehicle identification number," the number assigned by the manufacturer or by the  
18 department for the purpose of identifying the vehicle. The term includes any number  
19 or letters assigned by the manufacturer for the purpose of identifying a component  
20 part and any such number stamped on a vehicle or part according to law or the rules  
21 promulgated by the department for the purpose of identifying the vehicle or part.

22 Section 3. That § 32-6B-1 be amended by adding thereto a NEW SUBDIVISION to read as  
23 follows:

24 "Recreational park trailer," a vehicle that is primarily designed to provide temporary

1 living quarters for recreational, camping, or seasonal use and which:

- 2 (a) Is built on a single chassis mounted on wheels;
- 3 (b) Has a gross trailer area not exceeding four hundred square feet in the setup  
4 mode;
- 5 (c) Is certified by the manufacturer as complying with American National  
6 Standards Institute Standard No. A119.5 in effect on January 1, 2008; and
- 7 (d) Has at least a seventeen digit identification number and the manufacturer has  
8 designated the vehicle as a recreational park model on the manufacturer  
9 statement of origin.

10 Section 4. That § 32-6B-12 be amended to read as follows:

11 32-6B-12. Any dealer's license issued under this chapter shall be of the following classes:

- 12 (1) "Vehicle dealer's license," to permit the licensee to engage in the business of selling  
13 or exchanging new, or new and used, vehicles;
- 14 (2) "Used vehicle dealer's license," to permit the licensee to engage in the business of  
15 selling or exchanging used vehicles only;
- 16 (3) "Motorcycle dealer's license," to permit the licensee to engage in the business of  
17 selling or exchanging new or used motorcycles only;
- 18 (4) "Trailer dealer's license," to permit the licensee to engage in the business of selling  
19 or exchanging trailers, semitrailers, recreational park trailers, or travel trailers only,  
20 new or used; or
- 21 (5) "Emergency vehicle dealer's license," to permit the licensee to engage in the business  
22 of selling or exchanging new or used authorized emergency vehicles.

23 A license certificate identifying the class of dealership and containing a distinguishing  
24 identification number of licensee shall be issued by the department if the application is in

1 compliance with the provisions of this chapter.

2 Section 5. That subdivision (1) of § 34-18-1 be amended to read as follows:

3 34-18-1. Terms used in this chapter mean:

4 (1) Campground, a plot of ground for public use upon which two or more campsites are  
5 located, established, maintained, advertised, or held out to the public to be a place  
6 where camping units can be located and occupied as temporary living quarters for  
7 children or adults, or both. Camping units are considered to be trailers, tent campers,  
8 campers, tents, recreational park trailers, or other equipment that may be used by the  
9 ~~traveling~~ public at individual campsites located at campgrounds or areas used by the  
10 public as campgrounds;

11

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

708P0550

## SENATE TRANSPORTATION ENGROSSED NO. **SB** **139** - 1/22/2008

Introduced by: Senators Turbak Berry, Albers, Hoerth, Koetzle, and Lintz and  
Representatives Faehn, Koistinen, and Rave

1 FOR AN ACT ENTITLED, An Act to revise the definition for authorized emergency vehicles.

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

3 Section 1. That subdivision (2) of § 32-14-1 be amended to read as follows:

4 (2) "Authorized emergency vehicle," a vehicle of a fire department, a police vehicle, ~~and~~  
5 an ambulance ~~and~~ or emergency vehicle of a municipal department or public service  
6 corporation that is designated or authorized by the department, and an emergency  
7 vehicle titled to a local organization for emergency management created pursuant to  
8 chapter 33-15;

9

