



# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

831P0081

## SENATE STATE AFFAIRS ENGROSSED NO. **SB 100** - 2/6/2008

Introduced by: Senators Two Bulls, Hanson (Gary), Hoerth, Jerstad, Katus, Kloucek, Maher, Napoli, Peterson (Jim), Schmidt (Dennis), Sutton, and Turbak Berry and Representatives Bradford, Ahlers, Feinstein, Lucas, Moore, Nygaard, Sigdestad, Thompson, and Van Norman

1 FOR AN ACT ENTITLED, An Act to revise the definition of certain public entities that are  
2 prohibited from making political campaign contributions.

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

4 Section 1. That § 12-27-21 be amended to read as follows:

5 12-27-21. No candidate, political committee, or political party may accept any contribution  
6 from any state, state agency, political subdivision of the state, foreign government, Indian ~~tribe~~  
7 tribal entity as defined in the Federal Register Vol. 72, No. 55 as of March 22, 2007, federal  
8 agency, or the federal government. A violation of this section is a Class 1 misdemeanor.



# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

195P0530

SENATE STATE AFFAIRS  
ENGROSSED NO. **SB 143** - 1/30/2008

Introduced by: Senators Gray, Bartling, Dempster, Hanson (Gary), McCracken, and Nesselhuf and Representatives Faehn, Brunner, Hargens, Miles, and Rave

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding collection and  
2 administration of the 911 emergency surcharge and operation of 911 services.

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

4 Section 1. That § 34-45-1 be amended to read as follows:

5 34-45-1. Terms used in §§ 34-45-1 to 34-45-17, inclusive, mean:

- 6 (1) "Basic 911," any service which provides the user of a ~~public telephone system~~ calling  
7 device, which utilizes any telecommunications technology, the ability to reach a  
8 public safety answering point to report police, fire, medical, or other emergency  
9 situations by dialing 911;
- 10 (2) "Board," the South Dakota 911 Coordination Board created pursuant to § 34-45-18;
- 11 (3) "Enhanced 911," any ~~emergency telephone~~ system which provides the user of a  
12 ~~public telephone system~~ calling device, which utilizes any telecommunications  
13 technology, the ability to reach a public safety answering point by dialing the digits  
14 911, and which routes ~~an incoming 911~~ that call to the appropriate public safety



1           ~~answer point in a 911 service area and which automatically displays the name,~~  
2           ~~address, and telephone number of an incoming 911 call on a video monitor at the~~  
3           ~~appropriate public safety answer point provides information about the user to a 911~~  
4           ~~dispatcher including the user's name, location, call back number, and assigned~~  
5           ~~emergency responders;~~

6           ~~(3)~~(4) "Governing body," the board of county commissioners of a county or the city council  
7           or other governing body of a county or municipality or the board of directors of a  
8           special district;

9           (5)   "Interconnected Voice-over Internet Protocol (VoIP) service," any service with the  
10           following characteristics:

11           (a)   Enables real-time voice communication;

12           (b)   Requires a broadband connection from the user's locations;

13           (c)   Requires IP-compatible equipment; and

14           (d)   Permits users to receive calls that originate and terminate on the public  
15           switched telephone network;

16           (6)   "Interconnected VoIP service line," a service that offers an active telephone number  
17           or successor dialing protocol assigned by a VoIP provider to a VoIP service customer  
18           that has outbound calling capability which can directly access a public safety  
19           answering point when the VoIP service customer has a primary place of use in the  
20           state;

21           ~~(4)~~(7) "Local exchange access Telecommunications company," any ~~franchised telephone~~  
22           ~~company engaged in providing provider of a telecommunications services between~~  
23           ~~points within a local calling area service that either originates or terminates with at~~  
24           ~~least one person or point in the state;~~

1       ~~(5)~~ "Local exchange access lines," any telephone line or cellular telephone that connects  
2               a telephone subscriber to the local switching office and has the capability of reaching  
3               local public safety service agencies;

4       ~~(6)~~(8) "911 emergency reporting system" or "911 system," any ~~telephone~~  
5               telecommunications service system consisting of network, database, and on-premises  
6               equipment which utilizes the single three-digit number 911 for reporting police, fire,  
7               medical, or other emergency situation;

8       ~~(7)~~(9) "911 emergency surcharge," any charge set by the governing body and assessed on  
9               each ~~local exchange access line~~ any telecommunications service which physically  
10              terminates or originates within the governing body's designated 911 service area. For  
11              a mobile telecommunications service, the term, 911 emergency surcharge, means any  
12              charge set by the governing body and assessed per cellular telephone identified  
13              within the governing body's designated 911 service area as determined by the  
14              customer's place of primary use as defined in 4 U.S.C. § 124 as in effect on July 28,  
15              2000. Notwithstanding any other provision of this chapter and for purposes of the  
16              surcharge imposed by this chapter, the surcharge imposed upon mobile  
17              telecommunication services shall be administered in accordance with 4 U.S.C.  
18              §§ 116-126 as in effect on July 28, 2000. For prepaid ~~wireless telephone calling~~  
19              telecommunications services, the term, 911 emergency surcharge, means any charge  
20              set by the governing body and assessed ~~per month of~~ for service purchased within the  
21              governing body's designated 911 service area state;

22       ~~(8)~~(10) "Nonrecurring costs," any capital ~~and~~ or start-up expenditure ~~for~~ such as  
23              telecommunications equipment, software, database, initial training, and the  
24              purchase or lease of subscriber names, addresses, and telephone information

1 for the local exchange access company;

2 (11) "Place of primary use," the street address where the customer's use of the  
3 telecommunications service primarily occurs. For purposes of 911 emergency  
4 surcharge fees, place of primary use is the customer's registered location on the date  
5 the customer is billed;

6 ~~(8A)~~(12) "Prepaid wireless ~~telephone~~ telecommunications service," any wireless  
7 telephone telecommunications service that is activated in advance by payment  
8 for a finite dollar amount of service or for a finite number of minutes that  
9 terminate either upon use by any person ~~and delivery by the wireless provider~~  
10 ~~of an agreed amount of service corresponding to the total dollar amount paid~~  
11 ~~in advance~~ or within a certain period of time following the initial purchase or  
12 activation, unless an additional payment is made;

13 ~~(9)~~(13) "Public agency," any municipality, county, public district, or public authority  
14 located in whole or in part within this state which provides or has the authority  
15 to provide fire fighting, law enforcement, ambulance, emergency medical, or  
16 other emergency services;

17 ~~(10)~~(14) "Public safety answering point," any twenty-four hour communications facility  
18 which receives all 911 service calls and reroutes the requestor or information  
19 to appropriate public or private safety agencies;

20 ~~(11)~~(15) "Recurring costs," any costs such as network access fee and other telephone  
21 charges, software, equipment, database management, maintenance, charges to  
22 maintain database of subscriber names, addresses, and telephone information  
23 from the local exchange access company. Recurring costs may include  
24 personnel expenses for a public safety answering point ~~and any other costs~~

1 directly related to the operation of the 911 service;

2 (16) "Service provider," any person or entity providing, offering to provide, or selling a  
3 telecommunications service. The retail sale of prepaid wireless telecommunications  
4 service constitutes the sale of telecommunications service for the purposes of the  
5 surcharge imposed by this chapter;

6 ~~(12)~~(17) "Service supplier," any person or entity who provides or offers to provide 911  
7 system equipment, installation, maintenance, or exchange access services  
8 within the 911 service access area; and

9 ~~(13)~~(18) "Service user," any person who is provided local access exchange telephone  
10 a telecommunications service in this state;

11 (19) "Telecommunications service," any means of delivering voice communications from  
12 point to point or person to person through the use of identifying digits assigned to a  
13 particular user to initiate the communication, including telephone, wireline, wireless,  
14 prepaid, or Interconnected VoIP services and includes the retail sale of prepaid  
15 wireless telecommunications service.

16 Section 2. That § 34-45-2 be amended to read as follows:

17 34-45-2. The governing body of a public corporation may by ordinance authorize a 911  
18 emergency reporting system. The ordinance shall include a description of the proposed 911  
19 service area and the maximum surcharge amount.

20 Section 3. That § 34-45-3 be amended to read as follows:

21 34-45-3. Any governing body may incur any nonrecurring or recurring costs for the  
22 installation, maintenance, or operation of a 911 system and may pay such costs by imposing a  
23 911 emergency surcharge for such service in those portions of the governing body's jurisdiction  
24 for which 911 service will be provided in whole or in part from a 911 emergency surcharge. If

1 the 911 system is to be provided for any territory included in the jurisdiction of the governing  
2 bodies of two or more public agencies the public agencies may enter into a joint agreement for  
3 such service ~~unless any such body expressly excludes itself therefrom. Any such agreement shall~~  
4 ~~provide that each governing body which is a customer of such service shall make payment~~  
5 ~~therefor from general revenues. Nothing in this section prevents two or more such governing~~  
6 ~~bodies from entering into a contract to establish a separate legal entity to enter into such an~~  
7 ~~agreement as the customer of the service supplier.~~

8 Section 4. That § 34-45-4 be amended to read as follows:

9 34-45-4. Upon compliance with § 34-45-2, the governing body may ~~impose~~ collect a  
10 monthly uniform charge in an amount not to exceed seventy-five cents per service user line ~~on~~  
11 ~~each local exchange access line of the governing body's jurisdiction for which the 911 system~~  
12 ~~will be provided~~ billed to the service user on a periodic basis. The board may collect up to three  
13 percent of the charge for any prepaid telecommunication service sold in the state. The proceeds  
14 ~~of this charge shall be utilized to pay~~ are continuously appropriated for reimbursement of  
15 ~~nonrecurring and recurring costs of the 911 related service and operating expenses of the board.~~  
16 No such charge may be imposed upon more than one hundred ~~local exchange access~~ service  
17 user lines or equivalent service, per customer account billed, per month.

18 Section 5. That § 34-45-5 be amended to read as follows:

19 34-45-5. ~~Any charge imposed pursuant to §§ 34-45-3 and 34-45-4 and required to be~~  
20 ~~collected by the local exchange access company shall be added to, and shall be stated separately~~  
21 ~~in, the billings to the service user. Any person utilizing telecommunications service in the state~~  
22 is liable for the applicable 911 emergency surcharge. Any service provider providing any  
23 telecommunications service within the state or which is used within the state shall collect and  
24 remit to the governing body the applicable 911 emergency surcharge for telecommunications

1 services billed to service users monthly or the Department of Revenue and Regulation the  
2 applicable 911 emergency surcharge for prepaid telecommunication service. The surcharge shall  
3 be stated separately in any billing statement, invoice, or receipt.

4 Section 6. That § 34-45-6 be amended to read as follows:

5 34-45-6. Each ~~billed~~ service user is liable for any charge imposed pursuant to §§ ~~34-45-3~~  
6 ~~and § 34-45-4~~ until it has been paid to the ~~local exchange access company~~ service provider.

7 Section 7. That § 34-45-8 be amended to read as follows:

8 34-45-8. Any charge imposed pursuant to §§ ~~34-45-3~~ and § 34-45-4 and the amounts  
9 ~~required to be collected are to~~ shall be remitted to the governing body ~~quarterly. The amount of~~  
10 ~~the charge collected in one calendar quarter by the local exchange access company shall be~~  
11 ~~remitted to the governing body no later~~ for telecommunications service billed to service users  
12 monthly and to the Department of Revenue and Regulation for prepaid telecommunications  
13 service sold in the state on a return required by the Department of Revenue and Regulation. Not  
14 more than thirty days after the close of the calendar quarter. ~~On or before the sixteenth day of~~  
15 ~~each month following, a return for the preceding quarter shall be filed with the governing body~~  
16 ~~in such form as the governing body and local exchange access company shall agree upon. The~~  
17 ~~local exchange access company required to file the return~~ each service provider shall deliver the  
18 a return together with a remittance of the amount of the charge payable, to the Department of  
19 Revenue and Regulation or the appropriate governing body. The local exchange access company  
20 Each service provider shall maintain a record of collections made for a period of one year after  
21 the collection.

22 Section 8. That § 34-45-8.1 be repealed.

23 ~~34-45-8.1. Each prepaid wireless telephone calling service provider shall remit the surcharge~~  
24 ~~amount on each account for which service has been paid and not yet used to the governing body~~

1 ~~each calendar quarter pursuant to § 34-45-8. The surcharge amount shall be remitted to the~~  
2 ~~location associated with the telephone number that is programmed into the wireless telephone~~  
3 ~~that will be providing prepaid wireless telephone service. If the prepaid wireless telephone~~  
4 ~~calling service provider is unable to determine the location of the customer, the surcharge~~  
5 ~~amount shall be remitted based on the place at which the customer paid for the prepaid wireless~~  
6 ~~telephone service. The prepaid wireless telephone calling service provider may deduct units of~~  
7 ~~usage equivalent to the amount of the surcharge from the unused telecommunication service,~~  
8 ~~if the provider has so notified the purchaser at or before the time of purchase.~~

9 Section 9. That § 34-45-12 be amended to read as follows:

10 34-45-12. Funds There is hereby created within the state treasury the South Dakota 911  
11 Coordination fund. Any funds collected from the prepaid telecommunication service charge  
12 imposed pursuant to §§ ~~34-45-3~~ and § 34-45-4 shall be credited to a special fund, apart from the  
13 ~~general fund of the public agency, for payments of nonrecurring and recurring costs and for the~~  
14 ~~general operational expense of the 911 related service, including but not limited to the personnel~~  
15 ~~costs of the dispatchers or the monthly contract costs billed by the public safety answering point.~~  
16 ~~If the 911 system is discontinued, any money remaining in the fund after all payments to the~~  
17 ~~service supplier pursuant to this section have been made shall be transferred to the general fund~~  
18 ~~of the public agency or proportionately to the general funds of each participating public agency~~  
19 deposited in the South Dakota 911 Coordination fund. The board may authorize disbursements  
20 from the fund pursuant to this chapter for approved nonrecurring costs requested by the  
21 governing body of eligible 911 public safety answering points.

22 Section 10. That § 34-45-18 be amended to read as follows:

23 34-45-18. There is hereby established the South Dakota 911 ~~Coordinated Statewide System~~  
24 ~~Task Force. The task force shall evaluate the current 911 emergency reporting system in South~~

1 ~~Dakota, develop a plan for implementation of a coordinated statewide system covering as much~~  
2 ~~of the state as is practicable, and provide recommendations for the implementation, operation,~~  
3 ~~and funding of such a coordinated statewide 911 system in a report to the Governor by~~  
4 ~~November 30, 1998~~ Coordination Board. The board shall set minimum standards for operation  
5 of public safety answering points, determine criteria for reimbursement for nonrecurrent costs  
6 and the amount of reimbursement, and oversee the coordination of 911 services within the state.

7 Section 11. That § 34-45-18.1 be amended to read as follows:

8 34-45-18.1. The South Dakota 911 ~~Coordinated Statewide System Task Force~~ Coordination  
9 Board created pursuant to § 34-45-18 ~~is hereby continued and shall be expanded to include at~~  
10 ~~least one representative shall consist of representatives~~ from each of the following groups ~~as~~  
11 appointed by the Governor for three-year terms, the initial appointments shall be for staggered  
12 terms:

13 (1) One representative of the South Dakota Chapter of the Association of Public Safety  
14 Communication Officials;

15 (2) One representative of the South Dakota Chapter of the National Emergency Numbers  
16 Association, the South Dakota Emergency Management Association, the South  
17 Dakota Emergency Medical Technicians Association, the South Dakota Firefighters  
18 Association;

19 (3) Two representatives who are South Dakota telecommunications service providers;

20 (4) One representative who is an employee of the South Dakota Department of Public  
21 Safety;

22 (5) Two representatives of the South Dakota Association of County Commissioners;

23 (6) Two representatives of the South Dakota Municipal League;

24 (7) One representative of the South Dakota Police Chiefs Association; and

1       (8) One representative of the South Dakota Sheriffs Association, and at least one  
2             member from an operating public safety answering point system.

3       The Governor shall be provided with a list of ten persons for each board position from each  
4       group represented. The Governor has the authority to reject any or all names provided. The  
5       Governor may also remove any person appointed to the board at any time without cause. The  
6       ~~task force shall~~ board may conduct public hearings to develop and recommend standards for  
7       operation and utilization of public safety answering points.

8       Section 12. That § 34-45-18.2 be amended to read as follows:

9       34-45-18.2. The ~~task force shall develop a set of minimum~~ board may promulgate rules  
10       pursuant to chapter 1-26 setting:

11       (1) Minimum technical, operational, and procedural standards for the operation and  
12             utilization of a public safety answering point;

13       (2) Requirements and amounts for reimbursement of recurring and nonrecurring costs;  
14             and

15       (3) Standards for coordination of effective 911 service on a statewide basis.

16       Section 13. That § 34-45-18.3 be repealed.

17       ~~34-45-18.3. Each public safety answering point shall obtain a full audit report on 911 traffic~~  
18       ~~from its telephone service provider and provide that information to the task force for use in the~~  
19       ~~preparation of the standards. Each public safety answering point shall provide the audit report~~  
20       ~~to the task force no later than August 2, 1999.~~

21       Section 14. That § 34-45-19 be amended to read as follows:

22       34-45-19. The Governor shall appoint such persons to the task force as the Governor  
23       considers necessary to adequately evaluate the current system and for the development of the  
24       implementation of such a system. The task force board is attached to the Department of Military

1 ~~and Veterans Affairs, Division of Emergency Management~~ Public Safety for administrative  
 2 purposes. The ~~division~~ department shall assist the ~~task force~~ board and coordinate the  
 3 development of the coordinated statewide 911 system. The board may employ a 911 coordinator  
 4 within the department to assist with the coordination of the statewide 911 system.

5 Section 15. That § 34-45-20 be amended to read as follows:

6 34-45-20. The ~~task force~~ board shall:

7 (1) Evaluate all of the current public safety answering points and systems throughout the  
 8 State of South Dakota for their capability to adequately and efficiently administer  
 9 systems;

10 (2) ~~Prepare a cost benefit analysis of administrative and operational expenses for all~~  
 11 ~~existing 911 public safety answering points and systems;~~

12 ~~(3) Consider the feasibility and advisability of consolidating jurisdictions or systems for~~  
 13 ~~the purposes of more efficiently administering systems and utilizing available funds;~~

14 ~~(4) Prepare alternative~~ Develop plans for the implementation for a coordinated uniform  
 15 statewide 911 system covering the entire state or so much as is practicable;

16 ~~(5)(3) Prepare a detailed report of~~ Monitor the number and location of public safety  
 17 answering points or systems and the use of 911 emergency surcharge funds in their  
 18 administrative and operational ~~revenues and~~ budgets;

19 ~~(6)(4) Provide a report of alternative proposals~~ Develop criteria and minimum standards for  
 20 operating and financing public safety answering points or systems; ~~and~~

21 ~~(7)(5) Present its findings, implementation plan and recommendations to the Governor by~~  
 22 ~~November 30, 1998, for consideration~~ Develop criteria for the eligibility and amount  
 23 of reimbursement of recurrent and nonrecurrent costs of public safety answering  
 24 points or systems; and

1       (6)   Report annually to the Governor and the Legislature about the operations and  
2           findings the board and any recommendations for changes to 911 service in the state.

3       Section 16. That chapter 34-45 be amended by adding thereto a NEW SECTION to read as  
4 follows:

5       No later than July 1, 2010, each governing body and 911 system shall provide enhanced 911  
6 service.

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

171P0642

## SENATE APPROPRIATIONS ENGROSSED NO. **SB 172** - 2/4/2008

Introduced by: Senators Abdallah, Apa, Bartling, Dempster, Duenwald, Gant, Garnos, Gray, Greenfield, Hansen (Tom), Hanson (Gary), Hauge, Heidepriem, Hoerth, Hundstad, Hunhoff, Jerstad, Katus, Kloucek, Knudson, Koetzle, Lintz, Maher, McCracken, McNenny, Napoli, Nesselhuf, Olson (Ed), Peterson (Jim), Schmidt (Dennis), Smidt (Orville), Sutton, Turbak Berry, and Two Bulls and Representatives Gilson, Ahlers, Boomgarden, Bradford, Brunner, Buckingham, Burg, Cutler, Dennert, Elliott, Engels, Faehn, Feinstein, Gassman, Gillespie, Glenski, Gosch, Hackl, Halverson, Hargens, Haverly, Hills, Howie, Hunt, Jerke, Kirkeby, Koistinen, Krebs, Lucas, McLaughlin, Miles, Moore, Nelson, Noem, Novstrup (Al), Novstrup (David), Olson (Betty), Peters, Putnam, Rave, Sigdestad, Steele, Street, Thompson, Turbiville, Van Etten, Van Norman, Vanneman, Weems, Wick, and Willadsen

1 FOR AN ACT ENTITLED, An Act to appropriate money to the Department of Public Safety  
2 to fund the South Dakota Highway Patrol.

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 million four  
5 hundred thousand dollars (\$1,400,000) to the Department of Public Safety for the purpose of  
6 funding the South Dakota Highway Patrol.

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

9 Section 3. Any amounts appropriated in this Act not lawfully expended or obligated by



1 June 30, 2009, shall revert in accordance with the procedures prescribed in chapter 4-8.

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

715P0168

SENATE HEALTH AND HUMAN SERVICES

ENGROSSED NO. **SB 182** - 2/6/2008

Introduced by: Senators Dempster, Hansen (Tom), Heidepriem, Jerstad, Katus, McCracken, Napoli, and Smidt (Orville) and Representatives Dykstra, Cutler, Dennert, Halverson, Hunt, Krebs, Lust, Miles, Rave, Street, and Willadsen

1 FOR AN ACT ENTITLED, An Act to expand the disclosure of inpatient hospital charges and  
2 to provide for the development of a system for the disclosure of charges for outpatient  
3 procedures.

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

5 Section 1. That § 34-12E-11 be amended to read as follows:

6 34-12E-11. Any hospital licensed pursuant to chapter 34-12 shall report annually to the  
7 ~~Department of Health the charges for the twenty-five most common inpatient diagnostic-related~~  
8 ~~groups~~ South Dakota Association of Healthcare Organizations the charge information as  
9 described in § 34-12E-13 for that hospital's All Patient Refined Diagnosis-Related Groups for  
10 which ~~there are~~ that hospital had at least ten cases ~~rendered by the hospital~~ during the twelve  
11 months preceding the report. The Department of Health shall promulgate rules pursuant to  
12 chapter 1-26 to provide for the reporting of ~~charges~~ the charge information by hospitals. The  
13 rules shall include:

14 (1) The method for hospitals to report charges ~~to the department; and~~ and



- 1       (2) Standards that provide for the validity and comparability of charge reports; ~~and~~
- 2     ~~(3) The format for making charge reports available to the public.~~

3       Section 2. That chapter 34-12E be amended by adding thereto a NEW SECTION to read as  
4 follows:

5       The South Dakota Association of Healthcare Organizations shall develop a web-based  
6 system, available to the public at no cost, for reporting the charge information of hospitals. The  
7 charge information shall include disclaimers regarding factors, including case severity ratings  
8 and individual patient variations, which may affect actual charges to a patient for services  
9 rendered. The website shall provide information that compares hospital-specific data to hospital  
10 statewide data. The website shall be established by June 1, 2009, and shall be updated no less  
11 than annually.

12       Section 3. That § 34-12E-12 be amended to read as follows:

13       34-12E-12. The Department of Health shall ~~make available the hospital charge reports~~  
14 ~~required by § 34-12E-11~~ provide a link to the web-based system developed pursuant to section  
15 2 of this Act on its website. ~~The charge reports shall include disclaimers regarding factors,~~  
16 ~~including case severity ratings and individual patient variations, which may affect actual charges~~  
17 ~~to a patient for services rendered. Upon request, the department shall provide the charge reports~~  
18 ~~by first class mail.~~

19       Section 4. That § 34-12E-13 be amended to read as follows:

20       34-12E-13. For the purposes of §§ 34-12E-11 ~~to 34-12E-13, inclusive~~ and section 2 of this  
21 Act, the term, charge information, is that amount that a hospital would expect to charge for an  
22 ~~inpatient diagnostic-related group. Any charge that is required by §§ 34-12E-11 to 34-12E-13,~~  
23 ~~inclusive, to be reported to the public shall be the median charge for all cases of the diagnostic-~~  
24 ~~related group occurring in the twelve months preceding the report~~ includes the number of

1 discharges; average length of stay; average charge; median charge; demographic information;  
2 payer mix; charges not paid and charges paid by medicare, medicaid, and other government  
3 programs, and private insurance; and uncompensated care.

4 Section 5. That chapter 34-12E be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 The Department of Health shall, in collaboration with the South Dakota Association of  
7 Healthcare Organizations and the South Dakota State Medical Association, develop a list of  
8 outpatient procedures for the purpose of disclosure of charges to the public. The list shall be  
9 developed by December 31, 2008.

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

808P0713

## SENATE STATE AFFAIRS ENGROSSED NO. **SB 186** - 2/6/2008

Introduced by: Senators Knudson, Albers, Dempster, Gant, Gray, and Hansen (Tom) and Representatives Rhoden, Brunner, Cutler, Deadrick, Dykstra, Faehn, Heineman, Krebs, Olson (Russell), Rave, Turbiville, and Vehle

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding public records.

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

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

4 1-26D-4. Hearing examiners have all powers delineated in §§ 1-26-19.1 and 1-26-19.2 and  
5 shall hear all contested cases that arise under Titles 10 and 58 and chapter 1-27.

6 Section 2. That chapter 1-27 be amended by adding thereto a NEW SECTION to read as  
7 follows:

8 The provisions of this Act do not apply to the Unified Judicial System or Public Utilities  
9 Commission.

10 Section 3. That chapter 1-27 be amended by adding thereto a NEW SECTION to read as  
11 follows:

12 Any informal request for disclosure of documents or records shall be made to the custodian  
13 of the record. The custodian of the record may then provide the requestor with the document or  
14 record upon payment of the actual cost of mailing or transmittal and a fee not to exceed one



1 dollar per page, the actual cost of reproduction if greater than one dollar per page, or other fee  
2 established by statute or administrative rule. A requestor that makes an informal request  
3 requiring the dedication of staff time in excess of one hour may be required to pay the cost of  
4 the staff time necessary for the location, assembly, or reproduction of the public record.

5 Section 4. That chapter 1-27 be amended by adding thereto a NEW SECTION to read as  
6 follows:

7 For any informal request reasonably likely to involve a fee in excess of fifty dollars, the  
8 custodian shall provide an estimate of cost to the requestor prior to assembling the documents  
9 or records and the requestor shall confirm in writing his or her acceptance of the cost estimate  
10 and agreement to pay. The custodian may exercise discretion to waive or reduce any fee required  
11 under this section if the waiver or reduction of the fee would be in the public interest.

12 Section 5. That chapter 1-27 be amended by adding thereto a NEW SECTION to read as  
13 follows:

14 If an informal request is denied in whole or in part by the custodian of a document or record,  
15 a written request may be made by the requestor pursuant to this section:

16 (1) A written request may be made to the public record officer of the public entity  
17 involved. The public record officer shall promptly respond to the written request but  
18 in no event later than ten business days from receipt of the request. The public record  
19 officer shall respond to the request by:

20 (a) Providing the record in whole or in part to the requestor upon payment of any  
21 applicable fees pursuant to sections 3 and 4 of this Act;

22 (b) Denying the request for the record; or

23 (c) Acknowledging that the public record officer has received the request and  
24 providing an estimate of the time reasonably required to further respond

1                   thereto;

2       (2)   Additional time to respond to the written request under subsection (1)(c) of this  
3           section may be based upon the need to clarify the nature and scope of the written  
4           request, to locate and assemble the information requested, to notify any third persons  
5           or government agencies affected by the written request, or to determine whether any  
6           of the information requested is not subject to disclosure and whether a denial should  
7           be made as to all or part of the written request;

8       (3)   If a written request is unclear, the public record officer may require the requestor to  
9           clarify which records are being sought. If the requestor fails to provide a written  
10          response to the public record officer's request for clarification within ten business  
11          days, the request shall be deemed withdrawn and no further action by the public  
12          records officer is required;

13      (4)   If the public record officer denies a written request in whole or in part, the denial  
14          shall be accompanied by a written statement of the reasons for the denial;

15      (5)   If the public record officer fails to respond to a written request within ten business  
16          days, or fails to comply with the estimate provided under subsection (1)(3) of this  
17          section without provision of a revised estimate, the request shall be deemed denied.

18      Section 6. That chapter 1-27 be amended by adding thereto a NEW SECTION to read as  
19      follows:

20      If a public record officer denies a written request in whole or in part, or if the requestor  
21      objects to the public record officer's estimate of fees or time to respond to the request, a  
22      requestor may within ninety days of the denial commence a civil action by summons or, in the  
23      alternative, file a written notice of review with the Office of Hearing Examiners. The notice of  
24      review shall be mailed, via registered or certified mail, to the Office of Hearing Examiners and

1 shall contain:

- 2 (1) The name, address, and telephone number of the requestor;
- 3 (2) The name and business address of the public record officer denying the request;
- 4 (3) The name and business address of the agency, political subdivision, municipal  
5 corporation, or other entity from which the request has been denied;
- 6 (4) A copy of the written request;
- 7 (5) A copy of any denial or response from the public record officer; and
- 8 (6) Any other information relevant to the request that the requestor desires to be  
9 considered.

10 Section 7. That chapter 1-27 be amended by adding thereto a NEW SECTION to read as  
11 follows:

12 Upon receipt, the Office of Hearing Examiners shall promptly mail a copy of the notice of  
13 review filed pursuant to section 6 of this Act and all information submitted by the requestor to  
14 the public record officer named in the notice of review. The entity denying the written request  
15 may then file a written response to the Office of Hearing Examiners within ten business days.  
16 If the entity does not file a written response within ten business days, the Office of Hearing  
17 Examiners shall act on the information provided. The Office of Hearing Examiners shall  
18 provide a reasonable extension of time to file a written response upon written request or  
19 agreement of parties.

20 Section 8. That chapter 1-27 be amended by adding thereto a NEW SECTION to read as  
21 follows:

22 Upon receipt and review of the submissions of the parties, the Office of Hearing Examiners  
23 shall make written findings of fact and conclusions of law, and a decision as to the issue  
24 presented. Before issuing a decision, the Office of Hearing Examiners may hold a hearing

1 pursuant to chapter 1-26 if good cause is shown.

2 Section 9. That chapter 1-27 be amended by adding thereto a NEW SECTION to read as  
3 follows:

4 The aggrieved party may appeal the decision of the Office of Hearing Examiners to the  
5 circuit court pursuant to chapter 1-26.

6 Section 10. That chapter 1-27 be amended by adding thereto a NEW SECTION to read as  
7 follows:

8 The public record officer for the state is the secretary, constitutional officer, elected official,  
9 or commissioner of the department, office, or other division to which a request is directed. The  
10 public record officer for a county is the county auditor or the custodian of the record for law  
11 enforcement records. The public record officer for a first or second class municipality is the  
12 finance officer or the clerk or the custodian of the record for law enforcement records. The  
13 public record officer for a third class municipality is the president of the board of trustees or the  
14 custodian of the record for law enforcement records. The public record officer for an organized  
15 township is the township clerk. The public record officer for a school district is the district  
16 superintendent or CEO. The public record officer for a special district is the chairperson of the  
17 board of directors. The public record officer for any other entity not otherwise designated is the  
18 person who acts in the capacity of the chief financial officer or individual as designated by the  
19 entity.

20 Section 11. That chapter 1-27 be amended by adding thereto a NEW SECTION to read as  
21 follows:

22 The following forms are prescribed for use in the procedures provided for in sections 3 to  
23 10, inclusive, of this Act, but failure to use or fill out completely or accurately any of the forms  
24 does not void acts done pursuant to those sections provided compliance with the information

1 required by those sections is provided in writing.

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<p><b>NOTICE OF REVIEW</b></p> <p><b>REQUEST FOR DISCLOSURE OF PUBLIC RECORDS</b></p>
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Date of Request:	_____
Name of Requestor:	_____
Address of Requestor:	_____
Telephone Number of Requestor:	_____

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Type of Review Being Sought:
___ Request for Specific Record
___ Estimate of Fees
___ Estimate of Time to Respond
Short Explanation of Review Being Sought Including Specific Records Requested:
_____
_____
_____

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24

Name of Public Record Officer:	_____
Address of Public Record Officer:	_____
Name of Governmental Entity:	_____
Address of Governmental Entity:	_____

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27

*You must include with the submission of this Notice of Review - Request for Disclosure of Public Records form the following information: (1) A copy of your written request to the public record officer; (2) A copy of the public record officer's denial or response to your written*

1 *request, if any; and (3) Any other information relevant to the request that you desire to be*  
2 *considered.*

3 *I hereby certify that the above information is true and correct to the best of my knowledge.*

4 ***Signature of Requestor:*** \_\_\_\_\_

5 *The Notice of Review - Request for Disclosure of Public Records form shall be completed and*  
6 *submitted, via registered or certified mail, return receipt, to the following address:*

7 Office of Hearing Examiners

8 500 E. Capitol Avenue

9 Pierre, South Dakota 57501

10 605-773-6811

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**SOUTH DAKOTA OFFICE OF HEARING EXAMINERS**  
**NOTICE OF REQUEST FOR DISCLOSURE**  
**OF PUBLIC RECORDS**

TO: (Public Record Officer & Governmental Entity) \_\_\_\_\_

\_\_\_\_\_ has filed a Notice of Review - Request for Disclosure of Public Records. A copy of the Notice of Review - Request for Disclosure of Public Records is attached for your review.

You may file a written response to the Notice of Review - Request for Disclosure of Public Records within ten (10) business days of receiving this notice, exclusive of the day of service, at the following address:

Office of Hearing Examiners  
500 E. Capitol Avenue  
Pierre, South Dakota 57501  
605-773-6811

The Office of Hearing Examiners may issue its written decision on the information provided and will only hold a hearing if it deems a hearing necessary.

If you have any questions, please contact the Office of Hearing Examiners.

Dated this \_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Office of Hearing Examiners

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

637P0697

## SENATE STATE AFFAIRS ENGROSSED NO. **SB 189** - 2/6/2008

Introduced by: Senators Turbak Berry, Abdallah, Gant, Heidepriem, and Koetzle and  
Representatives Cutler, Engels, Gillespie, Halverson, Koistinen, Lust,  
McLaughlin, Novstrup (Al), Thompson, and Weems

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding public records and  
2 the accessibility of public records.

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

4 Section 1. That § 1-27-1 be amended to read as follows:

5 1-27-1. ~~If the keeping of a record, or the preservation of a document or other instrument is~~  
6 ~~required of an officer or public servant under any statute of this state, the officer or public~~  
7 ~~servant shall keep the record, document, or other instrument available and open to inspection~~  
8 ~~by any person during normal business hours. Except as otherwise specifically provided by law,~~  
9 ~~every record of a public entity is a public record, open and accessible for inspection during~~  
10 ~~reasonable office hours. As used in this section, reasonable office hours include all regular~~  
11 ~~office hours of a public entity. If a public entity does not have regular office hours, the name and~~  
12 ~~telephone number of a contact person authorized to provide access to the public entity's records~~  
13 ~~shall be posted on the door of the office of the public entity. Otherwise, the information~~  
14 ~~regarding the contact person shall be filed with the secretary of state for any state-level entity,~~



1 the city auditor or finance officer of the city for any city-level entity, or the county auditor for  
2 any other entity. Any employment examination or performance appraisal record maintained by  
3 the Bureau of Personnel is excluded from this requirement.

4 Any subscription or license holder list maintained by the Department of Game, Fish and  
5 Parks may be made available to the public for a reasonable fee. State agencies are exempt from  
6 payment of this fee for approved state use. The Game, Fish and Parks Commission may  
7 promulgate rules pursuant to chapter 1-26 to establish criteria for the sale and to establish the  
8 fee for the sale of such lists.

9 Any automobile liability insurer licensed in the state, or its certified authorized agent, may  
10 have access to the name and address of any person licensed or permitted to drive a motor vehicle  
11 solely for the purpose of verifying insurance applicant and policyholder information. An insurer  
12 requesting any such name and address shall pay a reasonable fee to cover the costs of producing  
13 such name and address. The Department of Public Safety shall set such fee by rules promulgated  
14 pursuant to chapter 1-26.

15 Any list released or distributed under this section may not be resold or redistributed.  
16 Violation of this section by the resale or redistribution of any such list is a Class 2 misdemeanor.

17 Section 2. That § 1-27-3 be amended to read as follows:

18 1-27-3. ~~Section~~ The provisions of § 1-27-1 shall do not apply to such records as are  
19 specifically enjoined to be held confidential or secret by ~~the laws requiring them to be so kept~~  
20 state or federal statute or regulation or to records that meet one or more of the following criteria:

21 (1) Records which, if disclosed, would constitute an unwarranted release of personal  
22 information;

23 (2) Records which, if disclosed, would impair present or pending contract awards or  
24 collective bargaining negotiations;

- 1       (3)   Records that constitute agency trade secrets, agency proprietary information, or  
2       intellectual property record as defined in § 1-27-9, or proprietary or trade secret  
3       information of private entities as defined in subdivision 1-27-28(4) or 1-27-28(5);
- 4       (4)   Financial, research and development, or computer software information as defined  
5       in § 1-27-9;
- 6       (5)   Work product, deliberative process and attorney-client records as defined in § 1-27-9  
7       or chapter 19-13;
- 8       (6)   Records which, if disclosed, could endanger the life or safety of any person;
- 9       (7)   Internal agency records or information received by agencies that are not required to  
10      be filed with such agencies, if such records do not constitute final statistical or factual  
11      tabulations, final instructions to staff that affect the public, or final agency policy or  
12      determinations, or any completed state or federal audit and if such information is not  
13      otherwise public under other state law, including chapter 15-15A and § 1-26-21;
- 14      (8)   Records that are examination questions or answers which are requested prior to the  
15      final round of testing where such questions will be used;
- 16      (9)   Security information or other records that, if disclosed, would jeopardize an agency's  
17      capacity to protect the security of critical infrastructure; and
- 18      (10) Records an agency receives from private sources regarding potential and existing  
19      investments of agency funds, agency investment strategy, and research conducted by  
20      or for an agency for purposes of making agency investments.

21       Nothing in this section imposes civil or criminal liability on any public employee or official  
22       who releases a record that may be considered confidential under this section but which is  
23       otherwise public under § 1-27-1.

24       Section 3. That § 1-27-9 be amended to read as follows:

1 1-27-9. As Terms used in §§ 1-27-9 to 1-27-18, inclusive this chapter mean:

2 (1) "Local record," ~~means a~~ any record of a county, municipality, township, district,  
3 authority, or any public corporation or political entity whether organized and existing  
4 under charter or under general law, unless the record is designated or treated as a  
5 state record under state law;

6 (2) "Record," ~~means any~~ document, book, paper, photograph, sound recording, or other  
7 material, regardless of physical form or characteristics, made or received pursuant to  
8 law or ordinance, maintained for purpose of government audit, or maintained in  
9 connection with the transaction of official business. Library and museum material  
10 made or acquired and preserved solely for reference or exhibition purposes, extra  
11 copies of documents preserved only for convenience of reference, and stocks of  
12 publications and of processed documents are not included within the definition of  
13 records as used in §§ 1-27-9 to 1-27-18, inclusive this chapter;

14 (3) "State agency," or "agency," or "agencies," includes all state officers, boards,  
15 commissions, departments, institutions, and agencies of state government. The terms  
16 specifically include the South Dakota Legislature, any state or municipal department,  
17 board, bureau, division, commission, public authority, council, office, or other  
18 governmental entity performing a governmental or proprietary function for the state  
19 or any one or more of the local subdivisions including counties, townships, school  
20 districts, municipalities, and authorities. These terms do not include the Unified  
21 Judicial System. These terms do not apply to statutes regarding the disclosure of state  
22 records of financial investigations in §§ 1-27-28 to 1-27-32, inclusive;

23 (4) "State record" means:

24 (a) A record of a department, office, commission, board, or other agency, however

- 1 designated, of the state government;
- 2 (b) A record of the State Legislature;
- 3 (c) A record of any court of record, whether of state-wide or local jurisdiction;
- 4 (d) Any other record designated or treated as a state record under state law;
- 5 (5) "Public record," any record that is required to be made public pursuant to § 1-27-1;
- 6 (6) "Critical infrastructure," systems, assets, places or things, whether physical or virtual,
- 7 so vital to the agency that the disruption, incapacitation, or destruction of such
- 8 systems, assets, places or things could jeopardize the health, safety, welfare, or
- 9 security of the agency, its residents, or its economy;
- 10 (7) "Security information," government data the disclosure of which would be likely to
- 11 jeopardize the security of critical infrastructure or to jeopardize the security of
- 12 information, possessions, persons, or property against theft, tampering, improper use,
- 13 attempted escape, illegal disclosure, trespass, or physical injury;
- 14 (8) "Personal information," data that is linked to the identity of a person and includes
- 15 medical records, social security number, credit, debit or electronic fund transfer card
- 16 numbers, any financial account numbers, driver's license numbers, date of birth,
- 17 unless such information is public under other state law, including chapter 15-15A and
- 18 § 1-26-21;
- 19 (9) "Financial information," information pertaining to monetary resources of a person
- 20 which, if disclosed, would impair the agency's future ability to obtain necessary
- 21 information, would cause substantial competitive injury to the person from which the
- 22 information was obtained, or would contribute to identity theft. Financial information
- 23 is confidential under this section unless such information is otherwise public under
- 24 other state law, including chapter 15-15A and § 1-26-21;

1       (10) "Research and development data," information shared between a sponsor or potential  
2       sponsor of research and an agency in conducting or negotiating an agreement for  
3       research, or information received from a private business that has entered into or is  
4       negotiating an agreement with an agency to conduct research, develop, or  
5       manufacture or create a product for potential commercial use, or a discovery or  
6       innovation generated by the research information, technical information, financial  
7       information or marketing information acquired for such purposes, or a document  
8       specifically and directly related to the licensing or commercialization resulting from  
9       activities described in this subdivision, or a discovery or innovation produced by the  
10       agency that an employee or the agency intends to market commercially and the  
11       disclosure of which would cause harm to such marketing efforts;

12       (10A) "Intellectual property record," a record, other than a financial or administrative  
13       record, that is produced or collected by or for faculty or staff of a publicly funded  
14       postsecondary institution or research facility in the conduct of or as a result of study  
15       or research on an educational, commercial, scientific, artistic, technical, or scholarly  
16       issue, regardless of whether the study or research was sponsored by the institution  
17       alone or in conjunction with a governmental body or private concern, and that has not  
18       been publicly released, published, or patented;

19       (11) "Computer software information," computer software programs and components of  
20       computer software programs that are subject to copyright or patent protection by any  
21       private entity, agency, officer, or public servant;

22       (12) "Agency proprietary record," any record developed by an agency that is proprietary  
23       as that term is defined in subdivision 1-27-28(4);

24       (13) "Agency trade secret," any record developed by an agency that is a trade secret as that

- 1 term is defined in subdivision 1-27-28(5);
- 2 (14) "Economic development record," any record held confidential under § 9-34-19, 1-  
3 16B-14.1, or 1-16G-11, and includes the prospective location of a business or  
4 industry, including the identity, nature, and location of the business or industry, if  
5 such information has not been previously disclosed by the specific business or  
6 industry at issue;
- 7 (15) "Work product record," any agency record of an attorney or other representative of  
8 a party as described in subdivision 15-6-26(b)(3);
- 9 (16) "Deliberative process record," any predecisional agency record that would reveal  
10 advisory opinions, recommendations, or deliberations comprising part of a process  
11 by which governmental decisions and policies are formulated and which is not  
12 required to be part of a contested case agency record under chapter 1-26;
- 13 (17) "Final disciplinary decision," the final decision of an agency regarding a disciplinary  
14 action against an agency employee resulting in suspension, termination, or reduction  
15 in pay or grade, regardless of the possibility of any later proceedings or court  
16 proceedings. In the case of arbitration proceedings arising under collective bargaining  
17 agreements, a final disposition occurs at the conclusion of the arbitration  
18 proceedings, or upon the failure of the employee to elect arbitration within the time  
19 provided by the collective bargaining agreement;
- 20 (18) "Person," any natural person, business entity, or governmental entity;
- 21 (19) "Agency fiscal record," any record kept by an agency for fiscal audit purposes,  
22 including contracts, vouchers, and lists or ledgers showing indebtedness (bonds,  
23 warrants, certificates, and other similar evidence of indebtedness), sources of  
24 revenue, amounts received, accounts receivable, accounts payable, claims and

1 demands, general and special taxes levied and paid, special assessments levied and  
2 paid, and other similar lists or ledgers that show the financial transactions, account  
3 balances, or financial condition of the agency. Personal or governmental account  
4 numbers (such as social security numbers, student identification numbers, credit card  
5 numbers, and bank account numbers) or passwords are not agency fiscal records;

6 (20) "Private entity," any person or entity that is not a public entity as defined by  
7 subdivision 3-21-1(2);

8 (21) "Financial investigation, examination, or audit," any examination conducted by a  
9 state agency of a private entity's proprietary information or trade secret information;  
10 and

11 (22) "Investment information," records and information an agency receives from private  
12 sources regarding potential and existing investments of agency funds, agency  
13 investment strategy, and research conducted by or for an agency for purposes of  
14 making agency investments.

15 Section 4. That § 23-5-7 be amended to read as follows:

16 23-5-7. All photographs, impressions, measurements, descriptions, or records including  
17 confidential criminal investigative information, taken or made as provided for in § 23-5-6 shall  
18 be filed and preserved by the department or institution where made or taken and ~~shall~~ may not  
19 be published, transferred, or circulated outside such department or institutions, nor exhibited  
20 to the public or any person or persons except duly authorized law enforcement officers unless  
21 the subject of such photograph, measurement, description, or other record becomes a fugitive  
22 from justice, or escapes from a penal institution. However, this section ~~shall~~ does not apply to  
23 the release of information allowed pursuant to § 24-2-20. Further, a booking photograph may  
24 be made public at the discretion of the executive officer of the arresting agency.

1 Section 5. That chapter 1-27 be amended by adding thereto a NEW SECTION to read as  
2 follows:

3 Each agency shall maintain:

- 4 (1) A record of the final vote of each member in every agency proceeding in which a roll  
5 call vote is made or a record of the numerical vote if individual votes are not  
6 recorded;
- 7 (2) A record setting forth the name, public office address, title, and salary of every  
8 officer or employee of the agency; and
- 9 (3) Current records retention schedules as required in § 1-27-13 or otherwise maintain  
10 a reasonably detailed current list by subject matter, of all records in the possession  
11 of the agency, regardless of whether such records are public under this chapter or  
12 subject to the records retention program provided in this chapter.

13 Section 6. That chapter 1-27 be amended by adding thereto a NEW SECTION to read as  
14 follows:

15 If the following records, pertaining to current and former employees, volunteers, and  
16 independent contractors of an agency are maintained, they are public:

- 17 (1) Copies of contracts with independent contractors and vouchers showing payments  
18 to such contractors;
- 19 (2) Name, actual annual gross salary, and salary range, for each current employee of the  
20 agency;
- 21 (3) The date of employment for each current employee and, except as provided in section  
22 9 of this Act, the work location and telephone number for the office where the  
23 employee works;
- 24 (4) Job title, bargaining unit, if any, job description, education and training background,

- 1 if available, previous work experience and honors and awards received for each  
2 current employee;
- 3 (5) For retired employees, the first and last date of employment and the actual annual  
4 benefits currently received, exclusive of the amount of employee-contributed  
5 benefits;
- 6 (6) For employees or officers who are paid a moving allowance, housing allowance,  
7 motor vehicle allowance, severance pay, or other payment not constituting employee  
8 salary, wages, or authorized travel or per diem reimbursements, the actual annual  
9 sum of such payments. For employees or officers receiving any in-kind benefit, such  
10 as use of a motor vehicle for personal purposes or a dwelling, the existence of such  
11 benefit is public and the fair market value of such in-kind benefit, if it has been  
12 calculated by the agency, is public;
- 13 (7) Any final disciplinary decision regardless of whether further legal action may be  
14 possible;
- 15 (8) Terms of any agreement settling any dispute arising out of an employment  
16 relationship, including a severance payment, and which shall include the specific  
17 reasons for the agreement if it involves the payment of more than ten thousand  
18 dollars of public money;
- 19 (9) Time sheets or comparable data if maintained that account for the employee or  
20 official's work time, except data that would reveal the reasons for the use of sick or  
21 medical leave or other data that would constitute an unwarranted invasion of person  
22 privacy such as individual contributions to pension plans; and
- 23 (10) The existence of any regulatory civil, criminal, or regulatory complaint that has been  
24 formally commenced against a public official who is the head or deputy head of an

1 agency, a member of a board or commission appointed by the Governor or other  
2 elected officer, or executive heads of bureaus, divisions, or public institutions.

3 Section 7. That chapter 1-27 be amended by adding thereto a NEW SECTION to read as  
4 follows:

5 Notwithstanding any other provision of this chapter, the following personnel data relating  
6 to officers, agents, or employees of agencies engaged in investigative work or law enforcement  
7 services, or to officers, agents, or employees of correctional facilities or secure treatment  
8 facilities who are directly involved in supervision of inmates or parolees, may not be disclosed:

- 9 (1) Place of prior employment;
- 10 (2) Payroll time sheets or other comparable data, to the extent that disclosure of payroll  
11 time sheets or other comparable data may disclose future work assignments; and
- 12 (3) Home address or telephone number, the location of an employee during nonworking  
13 hours, or the location of an employee's immediate family members.

14 Section 8. That chapter 1-27 be amended by adding thereto a NEW SECTION to read as  
15 follows:

16 Any final settlement agreement to which the agency is a party is public if it involves the  
17 termination of a license, permit, or registration issued by that agency regardless of whether  
18 formal termination proceedings have been initiated, if it involves the resolution of a legal  
19 dispute by a public agency that does not involve the expenditure of public funds, or if the release  
20 of such information will not, in the reasonable opinion of the agency, prompt nonmeritorious  
21 money claims against the agency.

22 Section 9. That chapter 1-27 be amended by adding thereto a NEW SECTION to read as  
23 follows:

24 Nothing in this chapter prevents the release of records if the record would otherwise be

1 public but contains information held confidential under § 1-27-3 that has been redacted before  
2 public disclosure. Further, nothing in this chapter prevents the release of records to any person  
3 who filed the record with the agency or prevents the release of regulatory records to the person  
4 regulated, if such regulatory records do not constitute investigatory records or records that are  
5 to be withheld from the person regulated under specific laws pertaining to such records.

6 Section 10. That chapter 1-27 be amended by adding thereto a NEW SECTION to read as  
7 follows:

8 Pursuant to the rules of civil procedure, a circuit court may enjoin or limit the examination  
9 and copying of a specific public record or a narrowly drawn class of public records as provided  
10 in this section. Any action for injunction pursuant to this section may be brought by the lawful  
11 custodian of a public record or by any other person who would be aggrieved or adversely  
12 affected by the examination or copying of such record. The injunction may be issued only if it  
13 is proved by clear and convincing evidence that the examination clearly would not be in the  
14 public interest, and that the examination would substantially and irreparably injure any person.

15 In ruling upon requests for injunction pursuant to this section, the court shall take into  
16 account the policy of this chapter that free and open examination of public records generally is  
17 in the public interest, even though such examination may on occasion cause inconvenience or  
18 embarrassment to public officials or other persons.

19 Good faith, reasonable delay by a lawful custodian of a record in permitting the examination  
20 and copying of a public record is not a violation of this chapter if the purpose of the delay is:

- 21 (1) To determine whether the record in question is a public record; or
- 22 (2) To determine whether inspection or copying of the record would substantially and  
23 irreparably injure any person; or
- 24 (3) To determine whether the lawful custodian is entitled to seek such an injunction or

- 1 should seek such an injunction; or
- 2 (4) To seek an injunction under this section.