

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

519P0019

HOUSE STATE AFFAIRS ENGROSSED NO. **HB** **1005** - 1/28/2008

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

Introduced by: Representatives Rhoden, Boomgarden, Dennert, Juhnke, Noem, Sigdestad, and Vanneman and Senators Knudson, Hansen (Tom), Lintz, and Peterson (Jim) at the request of the Interim Property Tax Assessment Study Committee

1 FOR AN ACT ENTITLED, An Act to revise certain provisions concerning the assessment of
2 real property, to assess agricultural land based on its agricultural income value, to create an
3 implementation and oversight advisory task force, to repeal certain provisions regarding the
4 assessment of property, and to repeal the nonagricultural acreage classification.

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

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

8 Notwithstanding the provisions of § 10-6-74, if any nonagricultural or owner-occupied
9 property sells for more than one hundred fifty percent of its assessed value after November 1,
10 2008, the sale of such property shall be used to value other real property if the sale is an arms-
11 length transaction. However, for the taxable valuation for the taxes payable in 2011, 2012, 2013,
12 2014, and 2015, no nonagricultural or owner-occupied property's valuation may increase more
13 than five percent per year because of such sales. The sales of nonagricultural and owner-



1 occupied property may only be used in a sales ratio study as allowed by this section.

2 Section 2. That chapter 10-6 be amended by adding thereto a NEW SECTION to read as
3 follows:

4 For the taxes payable in 2011, 2012, and 2013, the total taxable value of agricultural land
5 within any county may not increase more than fifteen percent in any year.

6 Section 3. That sections 1 and 2 of this Act be repealed on July 1, 2015.

7 Section 4. That § 10-6-74 be repealed on July 1, 2014.

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

10 Notwithstanding the provisions of § 10-6-33, beginning on July 1, 2009, agricultural land
11 shall be assessed based on its agricultural income value on a per acre basis. The agricultural
12 income value of agricultural land shall be determined on the basis of productivity and the annual
13 earnings capacity of the agricultural land. The productivity of agricultural land and its annual
14 earning capacity shall be based on data collected and analyzed pursuant to sections 5 to 10,
15 inclusive, of this Act.

16 Agricultural income value is defined as the capitalized average annual earning capacity on
17 a per acre basis which has been adjusted by an amount that reflects the landowner's share of the
18 gross return. The capacity of cropland to produce agricultural products shall be based on the
19 income from crops or plants produced on the land. The capacity of noncropland to produce
20 agricultural products shall be based on the animal unit carrying capacity of the land. For the
21 purpose of this section, annual earning capacity for:

- 22 (1) Cropland is twenty-four percent of the annual gross income capacity of the land; and
23 (2) Noncropland is twenty-five percent of the annual gross income capacity of the land.

24 The annual earning capacity shall be capitalized at a rate of six percent to determine the

1 agricultural income value.

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

4 The secretary of revenue and regulation shall enter into contracts with South Dakota State
5 University and, if necessary, the South Dakota Agricultural Statistics Service for the purpose
6 of creating a database to determine the agricultural income value of agricultural land by county.

7 The cropland data shall include: acres planted, acres harvested, yield per acre, and locally
8 adjusted crop prices. Locally adjusted crop prices shall be established by adjusting statewide
9 prices. The noncropland data shall include: rangeland acres, pastureland acres, rangeland AUM's
10 per acre, pastureland AUM's per acre, grazing season data, and statewide cow and calf prices.

11 The secretary shall have such data collected for 2001, which will serve as the first year of the
12 database, and each year thereafter. The database shall consist of the most recent eight years of
13 data that have been collected and the two years, one year representing the highest agricultural
14 income value and one year representing the lowest agricultural income value, shall be discarded
15 from the database. The database for the 2010 assessment for taxes payable in 2011 shall consist
16 of data from 2001 to 2008, inclusive, and the database for each assessment year thereafter shall
17 be adjusted accordingly. The economics department shall provide the data for each county to
18 the secretary of revenue and regulation by June first of each year.

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

21 The economics department of South Dakota State University shall submit recommendations
22 to the Agricultural Land Assessment Implementation and Oversight Advisory Task Force by
23 November 1, 2008, regarding factors to use for the percentage of annual earning capacity to be
24 used to determine the agricultural income value of the land pursuant to section 5 of this Act and

1 other provisions used to assess agricultural land that will provide the least amount of shift
2 between cropland and noncropland on a statewide basis. Thereafter, the economics department
3 shall submit such recommendations, if any, to the task force by September first of each year.

4 Section 8. That chapter 10-6 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Before July first each year, the secretary of revenue and regulation shall annually provide
7 each director of equalization the agricultural income value for each county as computed
8 pursuant to section 5 of this Act. The director of equalization shall annually determine the
9 assessed value of agricultural land. The assessed value of agricultural land may be adjusted by
10 the following factors:

- 11 (1) The capacity of the land to produce agricultural products as defined in § 10-6-33.2;
- 12 and
- 13 (2) The location, size, soil survey statistics, terrain, and topographical condition of the
- 14 land including the climate, accessibility, and surface obstructions which can be
- 15 documented.

16 Section 9. That chapter 10-6 be amended by adding thereto a NEW SECTION to read as
17 follows:

18 Agricultural land shall be divided by the director of equalization into categories, including
19 cropland and noncropland. Each category shall be divided into classes based on soil
20 classification standards developed by the United States Department of Agriculture Natural
21 Resources Conservation Service.

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

24 Buildings and structures, other than normally occupied dwellings on agricultural land and

1 automobile garages or portions of buildings used as automobile garages, which are used
2 exclusively for agricultural purposes and situated on agricultural land, are hereby specifically
3 classified for tax purposes as agricultural property and shall be assessed as similar
4 nonagricultural property.

5 Section 11. That chapter 10-6 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 The agricultural income value for agricultural land as determined by sections 5 to 10,
8 inclusive, of this Act represents the market value of agricultural land, and the Department of
9 Revenue and Regulation shall provide the director of equalization of each county the factor of
10 adjustment necessary for the computation required pursuant to §§ 10-3-41, 10-12-31.1,
11 10-12-42, and 10-13-37.

12 Section 12. That chapter 10-6 be amended by adding thereto a NEW SECTION to read as
13 follows:

14 There is hereby established the Agricultural Land Assessment Implementation and Oversight
15 Advisory Task Force. The task force shall consist of the following twelve members:

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

19 (2) The speaker of the House of Representatives shall appoint two members of the
20 general public;

21 (3) The president pro tempore of the Senate shall appoint four members of the Senate,
22 no more than two of whom may be from one political party; and

23 (4) The president pro tempore of the Senate shall appoint two members of the general
24 public.

1 The initial appointments shall be made no later than July 1, 2008, and shall serve until
2 January 12, 2009. The speaker of the House of Representatives and president pro tempore of the
3 Senate before the close of each regular session of the Legislature held in odd-numbered years
4 shall appoint members to the task force for a term of two years. If there is a vacancy on the task
5 force, the vacancy shall be filled in the same manner as the original appointment.

6 The task force shall advise the department regarding the rules promulgated by the
7 department to administer the provisions concerning the assessment and taxation of agricultural
8 lands and shall review the implementation of the provisions of law concerning the assessment
9 and taxation of agricultural land. The task force shall report to the Senate and House of
10 Representatives and may submit a copy of its report to the Governor. The task force may present
11 draft legislation and policy recommendations to the Legislative Research Council Executive
12 Board.

13 The task force shall make recommendations in the following areas:

- 14 (1) The proper percentage of annual earning capacity to be used to determine the
15 agricultural income value for subdivisions (1) and (2) of section 5 of this Act; and
- 16 (2) The proper capitalization rate in order to have total taxable valuation for the taxes
17 payable in 2011 from agricultural property be not more than total taxable valuation
18 for the taxes payable in 2010 from agricultural property plus the estimated growth in
19 agricultural property value in 2010.

20 Section 13. That § 10-6-33.13 be amended to read as follows:

21 10-6-33.13. The secretary of revenue and regulation may promulgate rules pursuant to
22 chapter 1-26 concerning the:

- 23 (1) Collection and tabulation of information required to determine median appraisal or
24 sales assessment ratio, and coefficient of dispersion;

- 1 (2) Criteria to be included in a compliance audit of assessment practices; ~~and~~
- 2 (3) Conditions under which a certificate of compliance may be issued to a county;
- 3 (4) Procedures for determining the valuation of agricultural buildings and structures;
- 4 (5) Procedures for determining the valuation of dwellings on agricultural land and
- 5 automobile garages or portions of buildings used as automobile garages;
- 6 (6) Application of cropland and noncropland income values;
- 7 (7) Application of soil classification standards; and
- 8 (8) Procedures for making adjustments to the value of agricultural land pursuant to
- 9 sections 5 to 10, inclusive, of this Act.

10 Before the secretary promulgates any rules pursuant to subdivision (4) to (8), inclusive, the
11 secretary shall present the proposed rules to the Agricultural Land Assessment Implementation
12 and Oversight Advisory Task Force established pursuant to section 12 of this Act.

13 Section 14. That § 10-12-31.1 be amended to read as follows:

14 10-12-31.1. Notwithstanding other provision of law, when applying the levies for school
15 purposes, the county director of equalization of each county shall adjust the level of assessment
16 in that district so that the level of assessment as indicated by the most recent assessment to sales
17 ratio as provided for in § 10-11-55 and the most recent ~~assessment to full agricultural land value~~
18 ~~ratio~~ agricultural income value as provided for in ~~§ 10-11-57~~ sections 5 to 10, inclusive, of this
19 Act in that district are equal to eighty-five percent of market value or agricultural income value.

20 The Department of Revenue and Regulation shall provide the director of equalization of each
21 county all of the factors of adjustment necessary for the computations required in this section.

22 Section 15. That § 10-6-33.3 be amended to read as follows:

23 10-6-33.3. Land or improvement on land within an operating unit which is not used incident
24 to an agricultural pursuit shall be separately listed and assessed ~~and the income therefrom shall~~

1 ~~not be used in determining the values for the purposes of §§ 10-6-33.1 and 10-6-33.2.~~

2 Section 16. That § 10-6-33.5 be amended to read as follows:

3 10-6-33.5. The assessment, valuation, equalization, and taxation of school and endowment
4 lands shall be at the same level and on the same basis as lands assessed, valued, and equalized
5 according to §§ ~~10-6-33.1 to 10-6-33.4, inclusive~~ sections 5 to 10, inclusive, of this Act.

6 Section 17. That § 10-6-33.7 be amended to read as follows:

7 10-6-33.7. Agricultural land in each county shall be divided into the eight classes defined
8 by the United States Department of Agriculture's soil conservation service as published in its
9 soil survey for each county. The county director of equalization shall, based on the agricultural
10 lands soil survey classification, determine a value for each soil type. ~~The value for each soil type~~
11 ~~shall be determined from sales of similar land based upon its soil survey classification, and as~~
12 ~~adjusted for the factors contained in subdivision 10-6-33.1(2). The sales used shall be sales of~~
13 ~~agricultural land that are sold for agricultural purposes.~~

14 Section 18. That § 10-6-31.3 be amended to read as follows:

15 10-6-31.3. For tax purposes, land is agricultural land if it meets two of the following three
16 criteria:

- 17 (1) At least thirty-three and one-third percent of the total family gross income of the
18 owner is derived from the pursuit of agriculture as defined in subdivision (2) of this
19 section or it is a state-owned public shooting area or a state-owned game production
20 area as identified in § 41-4-8 and it is owned and managed by the Department of
21 Game, Fish and Parks;
- 22 (2) Its principal use is devoted to the raising and harvesting of crops or timber or fruit
23 trees, the rearing, feeding, and management of farm livestock, poultry, fish, or
24 nursery stock, the production of bees and apiary products, or horticulture, all for

1 intended profit pursuant to subdivision (1) of this section. Agricultural real estate also
 2 includes woodland, wasteland, and pasture land, but only if the land is held and
 3 operated in conjunction with agricultural real estate as defined and it is under the
 4 same ownership;

5 (3) It consists of not less than twenty acres of unplatted land or is a part of a contiguous
 6 ownership of not less than eighty acres of unplatted land. The same acreage
 7 specifications apply to platted land, excluding land platted as a subdivision, which
 8 is in an unincorporated area. However, the board of county commissioners may
 9 increase the minimum acre requirement up to one hundred sixty acres.

10 ~~However, for tax purposes, land is not agricultural land if the land is classified pursuant to~~
 11 ~~§ 10-6-33.14 as a nonagricultural acreage.~~

12 Section 19. That § 10-13-37.1 be amended to read as follows:

13 10-13-37.1. For purposes of ~~§ 10-6-33.24 and~~ §§ 10-3-41, 10-12-31.1, and 10-13-37, the
 14 secretary of revenue and regulation shall calculate a factor for each county for the agricultural
 15 ~~and~~ nonagricultural valuations. The factor shall be calculated by using the sales of arms-length
 16 transactions and the assessments from the preceding assessment year. The secretary shall take
 17 into consideration any reappraisals completed by the director of equalization. If there are less
 18 fewer than fifteen sales of either class, the secretary shall use the preceding year's sales of that
 19 class with current assessments. ~~In the case of agricultural land, sales may also be bridged in~~
 20 ~~from adjoining counties if there are less than fifteen sales.~~

21 Section 20. That § 13-11-10 be amended to read as follows:

22 13-11-10. In implementing the terms of § 13-11-9, a separate weighted average tax levy of
 23 the receiving districts shall be calculated for agricultural property, ~~nonagricultural acreage~~
 24 ~~property~~, owner-occupied single-family dwelling property, and for nonagricultural property for

1 each sending school district as follows:

2 (1) The levy per thousand dollars of taxable valuation for agricultural property for each
3 receiving school district shall be multiplied by the number of children from the
4 sending school district to whom the receiving school district is providing educational
5 services;

6 (2) Add together the products from subdivision (1) for each receiving school district;

7 (3) Divide the sum from subdivision (2) by the total number of students that the
8 contracting school district is sending to the receiving school districts pursuant to
9 § 13-15-1.3. The quotient is the weighted average tax levy per one thousand dollars
10 of taxable valuation for agricultural property;

11 (4) The weighted average tax levy per thousand dollars of taxable valuation for
12 ~~nonagricultural acreage~~, owner-occupied single-family dwellings, and nonagricultural
13 property shall be obtained by repeating the procedure outlined in subdivisions (1) to
14 (3), inclusive, for each class of property; and

15 (5) The sum of the levies assessed for all funds in the sending district shall be equal to
16 or greater than the sum of all levies for all funds in the receiving district.

17 The above calculations do not include students receiving educational services from an
18 out-of-state school district nor the tax levy of any out-of-state school district.

19 Section 21. That § 10-12-42 be amended to read as follows:

20 10-12-42. For taxes payable in ~~2008~~ 2011 and each year thereafter, the levy for the general
21 fund of a school district shall be as follows:

22 (1) The maximum tax levy shall be nine dollars and eleven cents per thousand dollars of
23 taxable valuation subject to the limitations on agricultural property as provided in
24 subdivision (2) of this section, and owner-occupied property as provided for in

1 subdivision (3) of this section, ~~and nonagricultural acreage property as provided for~~
2 ~~in subdivision (4) of this section;~~

3 (2) The maximum tax levy on agricultural property for such school district shall be two
4 dollars and seventy-one cents per thousand dollars of taxable valuation. If the
5 district's levies are less than the maximum levies as stated in this section, the levies
6 shall maintain the same proportion to each other as represented in the mathematical
7 relationship at the maximum levies; and

8 (3) The maximum tax levy for an owner-occupied single-family dwelling as defined in
9 § 10-13-40, for such school district may not exceed four dollars and twenty-six cents
10 per thousand dollars of taxable valuation. If the district's levies are less than the
11 maximum levies as stated in this section, the levies shall maintain the same
12 proportion to each other as represented in the mathematical relationship at the
13 maximum levies; ~~and~~

14 ~~(4) The maximum tax levy on nonagricultural acreage property as defined in § 10-6-~~
15 ~~33.14, for such school district shall be three dollars and seventy-one cents per~~
16 ~~thousand dollars of taxable valuation. If the district's levies are less than the~~
17 ~~maximum levies as stated in this section, the levies shall maintain the same~~
18 ~~proportion to each other as represented in the mathematical relationship at the~~
19 ~~maximum levies.~~

20 All levies in this section shall be imposed on valuations where the median level of
21 assessment represents eighty-five percent of market value as determined by the Department of
22 Revenue and Regulation. These valuations shall be used for all school funding purposes. If the
23 district has imposed an excess levy pursuant to § 10-12-43, the levies shall maintain the same
24 proportion to each other as represented in the mathematical relationship at the maximum levies

1 in this section. The school district may elect to tax at less than the maximum amounts set forth
2 in this section.

3 Section 22. That § 10-6-33.25 be amended to read as follows:

4 10-6-33.25. For the purposes of § 10-6-33.24, the agricultural income value shall be
5 determined using capitalized annual cash rent. The annual cash rent is the annual cash rent,
6 excluding the per acre tax on agricultural land, determined through an analysis of arms-length
7 rental agreements collected within the county in the three years prior to the year for which the
8 agricultural income value is being determined. The agricultural income value of cropland shall
9 be based on average rents over a three-year period for cropland under natural conditions. The
10 agricultural income value of noncropland shall be based on average rents over a three-year
11 period for noncropland under natural conditions. However, no arms-length rental agreements
12 for irrigated land may be used to determine the annual cash rent pursuant to this section. The
13 annual cash rent shall be capitalized at ~~seven and three-fourths~~ six and fifteen hundredths
14 percent.

15 The secretary of revenue and regulation may enter into a contract for the collection of cash
16 rent information by county. Cash rent information shall be adjusted by soil survey statistics, if
17 available, and pursuant to § 10-6-33.26.

18 Section 23. That §§ 10-6-33.1, 10-6-33.4, 10-6-33.6, §§ 10-6-33.14 to 10-6-33.20, inclusive,
19 and §§ 10-6-33.23 to 10-6-33.27, inclusive, be repealed.

20 Section 24. That sections 14 to 21, inclusive, and section 23 are effective on July 1, 2009.

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

258P0045

HOUSE STATE AFFAIRS ENGROSSED NO. **HB** **1006** - 1/28/2008

Introduced by: Representatives Rhoden, Boomgarden, Dennert, Juhnke, Noem, Sigdestad, and Vanneman and Senators Knudson, Hansen (Tom), Lintz, and Peterson (Jim) at the request of the Interim Property Tax Assessment Study Committee

1 FOR AN ACT ENTITLED, An Act to revise certain tax levy limitations and property tax levies
2 for school districts.

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

4 Section 1. That § 13-13-72.1 be amended to read as follows:

5 13-13-72.1. Any adjustments in the levies specified in ~~subdivision 13-13-10.1(6)~~ § 10-12-42
6 made pursuant to §§ 13-13-71 and 13-13-72 shall be based on maintaining the relationship
7 between statewide local effort as a percentage of statewide local need in the fiscal year
8 succeeding the fiscal year in which the adjustment is made. In addition to the adjustments in the
9 levies provided by this section, the levies shall also be annually adjusted as necessary to reduce
10 the portion of local need paid by local effort by an amount equal to nine million dollars from
11 those funds transferred into the property tax reduction fund pursuant to § 10-50-52 subsequent
12 to July 1, 2007. In addition to the adjustments in the levies provided by this section, the levies
13 for nonagricultural property and owner-occupied single-family dwellings shall also be adjusted



1 as necessary to account for the additional increase in the total assessed value for nonagricultural
2 property and owner-occupied single-family dwellings pursuant to the phasing out and repeal of
3 the provisions provided in § 10-6-74.

4 Section 2. That § 13-10-6 be amended to read as follows:

5 13-10-6. For the purpose of continuing a fund for the payment of pensions to retired
6 employees of ~~a school districts which shall have~~ district that has established such system, ~~such~~
7 ~~districts~~ the school district may levy an annual tax not exceeding thirty cents per thousand
8 dollars of taxable valuation of ~~such~~ the school district for the current year. ~~Such~~ The levy may
9 not be included in determining the tax levy limitation of ~~such~~ the school district provided by
10 law. Moneys collected from ~~such~~ the tax shall be kept by the business manager in a special
11 pension fund and ~~shall~~ may not be used for any other purpose except upon discontinuance of
12 ~~such~~ the pension system by the school district, in which case any unexpended balance shall be
13 transferred to the general fund.

14 For taxes payable in 2011, the total amount of revenue payable from the levy provided in
15 this section may not increase more than the lesser of three percent or the index factor, as defined
16 in § 10-13-38, over the maximum amount of revenue that could have been generated for the
17 taxes payable in 2010. After applying the index factor, a school district may increase the revenue
18 payable from taxes on real property above the limitations provided by this section by the
19 percentage increase of value resulting from any improvements or change in use of real property,
20 annexation, minor boundary changes, and any adjustments in taxation of real property separately
21 classified and subject to statutory adjustments and reductions under chapters 10-4, 10-6, 10-6A,
22 and 10-6B, except § 10-6-31.4, only if assessed the same as property of equal value.

23 For taxes payable in 2012, 2013, 2014, and 2015, the total amount of revenue payable from
24 the levy provided in this section may not increase more than the lesser of three percent or the

1 index factor, as defined in § 10-13-38, over the maximum amount of revenue that could have
2 been generated for the taxes payable in 2010 plus any unused index factor from the previous
3 years. After applying the index factor, a school district may increase the revenue payable from
4 taxes on real property above the limitations provided by this section by the percentage increase
5 of value resulting from any improvements or change in use of real property, annexation, minor
6 boundary changes, and any adjustments in taxation of real property separately classified and
7 subject to statutory adjustments and reductions under chapters 10-4, 10-6, 10-6A, and 10-6B,
8 except § 10-6-31.4, only if assessed the same as property of equal value.

9 Any school district created or reorganized after January 1, 2009, is exempt from the
10 limitation provided by this section for a period of two years immediately following its creation.

11 For taxes payable in 2011, 2012, 2013, 2014, and 2015, the levy limitation of thirty cents
12 per thousand dollars of taxable valuation does not apply to any school district.

13 Section 3. That § 13-16-7 be amended to read as follows:

14 13-16-7. The school board of any school district of this state may at its discretion authorize
15 an annual levy of a tax not to exceed three dollars per thousand dollars of taxable valuation on
16 the taxable valuation of the district for the capital outlay fund for assets as defined by § 13-16-6
17 or for its obligations under a resolution, lease-purchase agreement, capital outlay certificate, or
18 other arrangement with the Health and Educational Facilities Authority. Taxes collected
19 pursuant to such levy may be irrevocably pledged by the school board to the payment of
20 principal of and interest on installment purchase contracts or capital outlay certificates entered
21 into or issued pursuant to § 13-16-6 or 13-16-6.2 or lease-purchase agreements or other
22 arrangement with the Health and Educational Facilities Authority and, so long as any capital
23 outlay certificates are outstanding, installment agreement payments, lease-purchase agreements,
24 or other arrangements are unpaid, the school board of any district may be compelled by

1 mandamus or other appropriate remedy to levy an annual tax sufficient to pay principal and
2 interest thereon, but not to exceed the three dollars per thousand dollars of taxable valuation in
3 any year authorized to be levied hereby.

4 For taxes payable in 2011, the total amount of revenue payable from the levy provided in
5 this section may not increase more than the lesser of three percent or the index factor, as defined
6 in § 10-13-38, over the maximum amount of revenue that could have been generated for the
7 taxes payable in 2010. After applying the index factor, a school district may increase the revenue
8 payable from taxes on real property above the limitations provided by this section by the
9 percentage increase of value resulting from any improvements or change in use of real property,
10 annexation, minor boundary changes, and any adjustments in taxation of real property separately
11 classified and subject to statutory adjustments and reductions under chapters 10-4, 10-6, 10-6A,
12 and 10-6B, except § 10-6-31.4, only if assessed the same as property of equal value. A school
13 district may increase the revenue it receives from taxes on real property above the limit provided
14 by this section for taxes levied to pay the principal, interest, and redemption charges on any
15 bonds issued after January 1, 2009, which are subject to referendum; for scheduled payment
16 increases on bonds, and for a levy directed by the order of a court for the purpose of paying a
17 judgment against the school district. Any school district created or reorganized after January 1,
18 2009, is exempt from the limitation provided by this section for a period of two years
19 immediately following its creation.

20 For taxes payable in 2012, 2013, 2014, and 2015, the total amount of revenue payable from
21 the levy provided in this section may not increase more than the lesser of three percent or the
22 index factor, as defined in § 10-13-38, over the maximum amount of revenue that could have
23 been generated for the taxes payable in 2010 plus any unused index factor from the previous
24 years. After applying the index factor, a school district may increase the revenue payable from

1 taxes on real property above the limitations provided by this section by the percentage increase
2 of value resulting from any improvements or change in use of real property, annexation, minor
3 boundary changes, and any adjustments in taxation of real property separately classified and
4 subject to statutory adjustments and reductions under chapters 10-4, 10-6, 10-6A, and 10-6B,
5 except § 10-6-31.4, only if assessed the same as property of equal value. A school district may
6 increase the revenue it receives from taxes on real property above the limit provided by this
7 section for taxes levied to pay the principal, interest, and redemption charges on any bonds
8 issued after January 1, 2009, which are subject to referendum, scheduled payment increases on
9 bonds and for a levy directed by the order of a court for the purpose of paying a judgment
10 against such school district. Any school district created or reorganized after January 1, 2009, is
11 exempt from the limitation provided by this section for a period of two years immediately
12 following its creation.

13 For taxes payable in 2011, 2012, 2013, 2014, and 2015, the levy limitation of three dollars
14 per thousand dollars of taxable valuation does not apply to any school district.

15 Section 4. That § 13-37-16 be amended to read as follows:

16 13-37-16. For taxes payable in 1997, and each year thereafter, the school board shall levy
17 no more than one dollar and forty cents per thousand dollars of taxable valuation, as a special
18 levy in addition to all other levies authorized by law for the amount so determined to be
19 necessary, and such levy shall be spread against all of the taxable property of the district. The
20 proceeds derived from such levy shall constitute a school district special education fund of the
21 district for the payment of costs for the special education of all children in need of special
22 education or special education and related services who reside within the district pursuant to the
23 provisions of §§ 13-37-8.2 to 13-37-8.10, inclusive. The levy in this section shall be based on
24 valuations such that the median level of assessment represents 85% of market value as

1 determined by the Department of Revenue and Regulation. The total amount of taxes that would
2 be generated at the levy pursuant to this section shall be considered local effort. Money in the
3 special education fund may be expended for the purchase or lease of any assistive technology
4 that is directly related to special education and specified in a student's individualized education
5 plan. This section does not apply to real property improvements.

6 For taxes payable in 2011, the total amount of revenue payable from the levy provided in
7 this section may not increase more than the lesser of three percent or the index factor, as defined
8 in § 10-13-38, over the maximum amount of revenue that could have been generated for the
9 taxes payable in 2010. After applying the index factor, a school district may increase the revenue
10 payable from taxes on real property above the limitations provided by this section by the
11 percentage increase of value resulting from any improvements or change in use of real property,
12 annexation, minor boundary changes, and any adjustments in taxation of real property separately
13 classified and subject to statutory adjustments and reductions under chapters 10-4, 10-6, 10-6A,
14 and 10-6B, except § 10-6-31.4, only if assessed the same as property of equal value.

15 Any school district created or reorganized after January 1, 2009, is exempt from the
16 limitation provided by this section for a period of two years immediately following its creation.

17 For taxes payable in 2012, 2013, 2014, and 2015, the total amount of revenue payable from
18 the levy provided in this section may not increase more than the lesser of three percent or the
19 index factor, as defined in § 10-13-38, over the maximum amount of revenue that could have
20 been generated for the taxes payable in 2010 plus any unused index factor from the previous
21 years. After applying the index factor, a school district may increase the revenue payable from
22 taxes on real property above the limitations provided by this section by the percentage increase
23 of value resulting from any improvements or change in use of real property, annexation, minor
24 boundary changes, and any adjustments in taxation of real property separately classified and

1 subject to statutory adjustments and reductions under chapters 10-4, 10-6, 10-6A, and 10-6B,
2 except § 10-6-31.4, only if assessed the same as property of equal value.

3 For taxes payable in 2011, 2012, 2013, 2014, and 2015, the levy limitation of one dollar and
4 forty cents per thousand dollars of taxable valuation does not apply to any school district.

5 Section 5. That § 13-37-35.1 be amended to read as follows:

6 13-37-35.1. Terms used in chapter 13-37 mean:

- 7 (1) "Level one disability," a mild disability;
- 8 (2) "Level two disability," a mental retardation or emotional disorder;
- 9 (3) "Level three disability," hearing impairment, deafness, visual impairment, deaf-
10 blindness, orthopedic impairment, or traumatic brain injury;
- 11 (4) "Level four disability," autism;
- 12 (5) "Level five disability," multiple disabilities;
- 13 (5A) "Level six disability," prolonged assistance;
- 14 (6) "Index factor," is the annual percentage change in the consumer price index for urban
15 wage earners and clerical workers as computed by the Bureau of Labor Statistics of
16 the United States Department of Labor for the year before the year immediately
17 preceding the year of adjustment or three percent, whichever is less;
- 18 (7) "Local effort," shall be calculated for taxes payable in 2006 and thereafter using a
19 ~~special education levy of one dollar and twenty cents per one thousand dollars of~~
20 ~~valuation~~ 2011 and shall be the amount of revenue that could have been generated
21 for the taxes payable in 2010 using a special education levy of one dollar and twenty
22 cents per one thousand dollars of valuation increased by the lesser of three percent
23 or the index factor, as defined in § 10-13-38, plus a percentage increase of value
24 resulting from any improvements or change in use of real property, annexation, minor

1 boundary changes, and any adjustments in taxation of real property separately
2 classified and subject to statutory adjustments and reductions under chapters 10-4,
3 10-6, 10-6A, and 10-6B, except § 10-6-31.4, only if assessed the same as property
4 of equal value.

5 For taxes payable in 2012, 2013, 2014, and 2015, the total amount of local effort
6 shall be increased by the lesser of three percent or the index factor, established
7 pursuant to § 10-13-38 plus a percentage increase of value resulting from any
8 improvements or change in use of real property, annexation, minor boundary
9 changes, and any adjustments in taxation of real property separately classified and
10 subject to statutory adjustments and reductions under chapters 10-4, 10-6, 10-6A, and
11 10-6B, except § 10-6-31.4, only if assessed the same as property of equal value;

12 (8) "Allocation for a student with a level one disability," for the school fiscal year
13 beginning July 1, 2004, is \$ 3,533.13. For each school year thereafter, the allocation
14 for a student with a level one disability shall be the previous fiscal year's allocation
15 for such child increased by the lesser of the index factor or three percent;

16 (9) "Allocation for a student with a level two disability," for the school fiscal year
17 beginning July 1, 2004, is \$ 8,277.21. For each school year thereafter, the allocation
18 for a student with a level two disability shall be the previous fiscal year's allocation
19 for such child increased by the lesser of the index factor or three percent;

20 (10) "Allocation for a student with a level three disability," for the school fiscal year
21 beginning July 1, 2004, is \$ 12, 580.73. For each school year thereafter, the allocation
22 for a student with a level three disability shall be the previous fiscal year's allocation
23 for such child increased by the lesser of the index factor or three percent;

24 (11) "Allocation for a student with a level four disability," for the school fiscal year

1 beginning July 1, 2004, is \$ 12, 001.80. For each school year thereafter, the allocation
2 for a student with a level four disability shall be the previous fiscal year's allocation
3 for such child increased by the lesser of the index factor or three percent;

4 (12) "Allocation for a student with a level five disability," for the school fiscal year
5 beginning July 1, 2004, is \$ 15, 882.21. For each school year thereafter, the allocation
6 for a student with a level five disability shall be the previous fiscal year's allocation
7 for such child increased by the lesser of the index factor or three percent;

8 (12A) "Allocation for a student with a level six disability," for the school fiscal year
9 beginning July 2004, is \$8,122.23. For each school year thereafter, the allocation for
10 a student with a level six disability shall be the previous fiscal year's allocation for
11 such child increased by the lesser of the index factor or three percent;

12 (13) "Child count," is the number of students in need of special education or special
13 education and related services according to criteria set forth in rules promulgated
14 pursuant to §§ 13-37-1.1 and 13-37-46 submitted to the Department of Education in
15 accordance with rules promulgated pursuant to § 13-37-1.1;

16 (14) "Average daily membership," the average number of kindergarten through twelfth
17 grade pupils enrolled in all schools operated by the school district during the previous
18 regular school year plus the average number of pupils for whom the district pays
19 tuition;

20 (15) "Nonpublic school," a sectarian organization or entity which is accredited by the
21 secretary of education for the purpose of instructing children of compulsory school
22 age. This definition excludes any school that receives a majority of its revenues from
23 public funds;

24 (16) "Nonpublic average daily membership," the average number of children under age

1 sixteen who are approved for alternative instruction pursuant to § 13-27-2 during the
2 previous school year plus:

3 (a) For nonpublic schools located within the boundaries of a public school district
4 with an average daily membership of six hundred or more during the previous
5 school year, the average number of kindergarten through twelfth grade pupils
6 enrolled during the previous regular school year in all nonpublic schools
7 located within the boundaries of the public school district;

8 (b) For nonpublic schools located within the boundaries of a public school district
9 with an average daily membership of less than six hundred during the previous
10 school year, the average number of resident kindergarten through twelfth grade
11 pupils enrolled during the previous school year in all nonpublic schools
12 located within the State of South Dakota;

13 (17) "Special education average daily membership," average daily membership plus
14 nonpublic average daily membership;

15 (18) "Local need," an amount to be determined as follows:

16 (a) Multiply the special education average daily membership by 0.1013 and
17 multiply the result by the allocation for a student with a level one disability;

18 (b) Multiply the number of students having a level two disability as reported on
19 the child count for the previous school fiscal year by the allocation for a
20 student with a level two disability;

21 (c) Multiply the number of students having a level three disability as reported on
22 the child count for the previous school fiscal year by the allocation for a
23 student with a level three disability;

24 (d) Multiply the number of students having a level four disability as reported on

1 the child count for the previous school fiscal year by the allocation for a
2 student with a level four disability;

3 (e) Multiply the number of students having a level five disability as reported on
4 the child count for the previous school fiscal year by the allocation for a
5 student with a level five disability;

6 (f) Multiply the number of students having a level six disability as reported on the
7 child count for the previous school fiscal year by the allocation for a student
8 with a level six disability;

9 (g) Sum the results of (a) through (f);

10 (19) "Effort factor," ~~the school district's special education tax levy in dollars per thousand~~
11 ~~divided by \$1.20 for taxes payable in 2011, 2012, 2013, 2014, and 2015, the effort~~
12 factor is the amount of taxes payable for the year divided by the amount of local
13 effort as calculated in subdivision (7). The maximum effort factor is 1.0.

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

400P0317

HOUSE ENGROSSED NO. **HB 1044** - 1/23/2008

Introduced by: The Committee on Education at the request of the Department of Education

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the teacher
2 compensation assistance program.

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

4 Section 1. That chapter 13-3 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Once all the school districts with approved applications have received their funding pursuant
7 to § 13-3-73, the Department of Education may set aside from any funds remaining, a sum not
8 to exceed one hundred thousand dollars from the teacher compensation assistance program
9 appropriation for the purpose of providing grants to educational cooperatives and multi-district
10 centers that employ teachers for public schools. The South Dakota Board of Education may
11 promulgate rules, pursuant to chapter 1-26, to establish the granting process.



State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

400P0330

HOUSE APPROPRIATIONS ENGROSSED NO. **HB** **1067** - 1/25/2008

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

1 FOR AN ACT ENTITLED, An Act to make an appropriation to defray operation costs of the
2 24/7 sobriety program and to declare an emergency.

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

4 Section 1. There is hereby appropriated from the law enforcement officers training fund the
5 sum of four hundred thousand dollars (\$400,000), or so much thereof as may be necessary, to
6 the Office of the Attorney General's 24/7 sobriety fund, to defray costs of operating the 24/7
7 sobriety program.

8 Section 2. The attorney general shall approve vouchers and the state auditor shall draw
9 warrants to pay expenditures authorized by this Act.

10 Section 3. Whereas, this Act is necessary for the immediate preservation of the public peace,
11 health, or safety, an emergency is hereby declared to exist, and this Act shall be in full force and
12 effect from and after its passage and approval.



State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

400P0338

HOUSE APPROPRIATIONS ENGROSSED NO. **HB** **1081** - 1/25/2008

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

1 FOR AN ACT ENTITLED, An Act to authorize the Board of Regents to replace storage
2 facilities at the Cottonwood Agricultural Experiment Station and to make an appropriation
3 therefor.

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

5 Section 1. The Board of Regents may contract for the construction, completion, furnishing,
6 equipping, and maintaining of, including heating, air conditioning, plumbing, water, sewer,
7 electric facilities, architectural and engineering services, asbestos abatement, and such other
8 services as may be required to construct a new machine and equipment storage shed and hoop
9 barn at the Cottonwood Agricultural Experiment Station, located near Cottonwood in Jackson
10 County, in conjunction with the agricultural experiment station, at an estimated cost of two
11 hundred thousand dollars.

12 Section 2. The Board of Regents shall provide for the removal or demolition of existing
13 storage sheds pursuant to § 13-51-12.

14 Section 3. There is hereby appropriated from pesticide registration fees designated for the



1 agricultural experiment station in subdivision 38-20A-59(4) the sum of two hundred thousand
2 dollars (\$200,000), or so much thereof as may be necessary, to the Board of Regents for the
3 purpose of constructing the facility described in this Act.

4 Section 4. The design and construction of the facilities approved by this Act shall be under
5 the general supervision of the Bureau of Administration as provided in § 5-14-2. The
6 commissioner of the Bureau of Administration and the executive director of the Board of
7 Regents shall approve vouchers and the state auditor shall draw warrants to pay expenditures
8 authorized by this Act.

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

400P0339

HOUSE APPROPRIATIONS ENGROSSED NO. **HB** **1082** - 1/25/2008

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

1 FOR AN ACT ENTITLED, An Act to revise the appropriation for a new dairy manufacturing
2 plant at South Dakota State University.

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

4 Section 1. That section 2 of chapter 93 of the 2006 Session Laws be amended to read as
5 follows:

6 Section 2. There is hereby appropriated to the Board of Regents ~~four million dollars~~
7 ~~(\$4,000,000)~~ five million eight hundred fifty-two thousand dollars (\$5,852,000), or so much
8 thereof as may be necessary, from private donations and grants received by South Dakota State
9 University to construct the facility described in section 1 of this Act.

10 Section 2. That section 3 of chapter 93 of the 2006 Session Laws be repealed.

11 ~~Section 3. The Board of Regents may accept, transfer, and expend any funds obtained for~~
12 ~~these purposes from federal sources, gifts, contributions, or any other source, all of which shall~~
13 ~~be deemed appropriated to the project authorized by this Act.~~



State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

831P0015

HOUSE ENGROSSED NO. **HB 1112** - 1/29/2008

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

Introduced by: Representatives Brunner, Buckingham, DeVries, Gilson, Hills, Juhnke, Kirkeby, Krebs, Nelson, Noem, Olson (Betty), Pitts, Rhoden, Sigdestad, Vanneman, and Vehle and Senators Hansen (Tom), Abdallah, Duenwald, Lintz, Maher, and McNenny

1 FOR AN ACT ENTITLED, An Act to revise certain provisions related to the direction,
2 supervision, and registration fees for veterinary technicians.

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

4 Section 1. That § 36-12-21.1 be amended to read as follows:

5 36-12-21.1. Any veterinarian licensed to practice ~~his profession~~ veterinary medicine in the
6 State of South Dakota may use the services of ~~not more than two~~ one or more registered
7 veterinary technicians. Veterinary technicians provided for in this section before being employed
8 by a licensed veterinarian shall be registered by the board as provided by §§ 36-12-21.3 and 36-
9 12-21.4 and while registered and employed by a licensed veterinarian ~~may not be~~ are not
10 considered to be engaged in the practice of veterinary medicine.

11 Section 2. That § 36-12-21.3 be amended to read as follows:

12 36-12-21.3. An application for registry of a veterinary technician shall be filed with the
13 board by the licensed veterinarian under whom the technician will practice. The application for



1 registry shall set out the qualifications of the technician required by the rules of the board and
2 the application shall be on forms provided by the board. The fee for registration of a veterinary
3 technician ~~is ten dollars and the~~ shall be established by the State Board of Veterinary Medical
4 Examiners in rules promulgated pursuant to chapter 1-26 and may not exceed fifty dollars. The
5 fee shall accompany the application.

6 Section 3. That § 36-12-21.6 be amended to read as follows:

7 36-12-21.6. A veterinary technician may only work under the direction or supervision of the
8 licensed veterinarian or veterinarians by whom ~~he~~ the technician is employed. The State board
9 of Veterinary Medical Examiners shall promulgate rules pursuant to chapter 1-26 to define the
10 terms direction and supervision.

11 Section 4. That § 36-12-21.7 be amended to read as follows:

12 36-12-21.7. A veterinary technician registered under §§ 36-12-21.3 and 36-12-21.4 may not
13 maintain or operate any office separate from the office of the licensed veterinarian by whom ~~he~~
14 the technician is employed.

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

970P0248

HOUSE JUDICIARY ENGROSSED NO. **HB 1135** - 1/25/2008

Introduced by: The Committee on Judiciary at the request of the Chief Justice

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to filing petitions for
2 protection and to declare an emergency.

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

4 Section 1. That § 22-19A-9 be amended to read as follows:

5 22-19A-9. A petition for relief under §§ 22-19A-8 to 22-19A-16, inclusive, may be filed in
6 circuit court or in a magistrate court with a magistrate judge presiding. Venue lies where any
7 party to the proceedings resides.

8 Section 2. Whereas, this Act is necessary for the immediate preservation of the public peace,
9 health, or safety, an emergency is hereby declared to exist, and this Act shall be in full force and
10 effect from and after its passage and approval.



State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

921P0548

HOUSE ENGROSSED NO. **HB 1174** - 1/28/2008

Introduced by: Representatives Rausch, Gillespie, Heineman, Nelson, Olson (Russell), Pitts, and Street and Senators Hansen (Tom), Albers, Bartling, Gant, Katus, Nesselhuf, Smidt (Orville), and Turbak Berry

1 FOR AN ACT ENTITLED, An Act to revise certain provisions related to the composition of
2 water development district boards of directors.

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

4 Section 1. That § 46A-3A-18 be repealed.

5 ~~46A-3A-18. Whenever the provisions of chapters 46A-3A to 46A-3E, inclusive, provide for~~
6 ~~an election requiring an affirmative vote of at least sixty percent of the votes cast, the~~
7 ~~requirement shall be construed to mean sixty percent of the combined rural director areas and~~
8 ~~sixty percent of the combined urban director areas in the election.~~

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

10 46A-3B-2. The board of directors of a water development district shall consist of five,
11 seven, or nine members. Those districts which have a population up to twenty-five thousand
12 shall have five directors. Those districts which have a population of twenty-five thousand and
13 one to seventy-five thousand shall have seven directors. Districts with a population greater than
14 seventy-five thousand shall have nine directors. Each director shall be a resident and real



1 ~~property owner voter~~ in the director area ~~he represents~~ represented. The Board of Water and
2 Natural Resources shall divide the ~~portion of the~~ water development district ~~lying outside the~~
3 ~~boundaries of incorporated municipalities and outside the extraterritorial jurisdiction of~~
4 ~~municipalities of the first class~~ into rural director areas. A rural director shall be elected from
5 each rural director area. ~~Five-member boards shall have three rural directors; seven-member~~
6 ~~boards shall have four rural directors; and nine-member boards shall have five rural directors.~~
7 ~~The Board of Water and Natural Resources shall divide the portion of the water development~~
8 ~~district lying within the boundaries of incorporated municipalities and within the extraterritorial~~
9 ~~jurisdiction of municipalities of the first class into municipal director areas. A municipal~~
10 ~~director shall be elected from each municipal director area. Five-member boards will have two~~
11 ~~municipal directors; seven-member boards will have three municipal directors; and~~
12 ~~nine-member boards will have four municipal directors.~~

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

15 For any water development district having director areas that will be realigned as a result
16 of the provisions of this Act, any director of the district who is in office on the effective date of
17 this Act shall continue to serve as a director if the director remains a resident of the district. At
18 the first general election after the effective date of this Act, for any such water development
19 district, directors shall be elected for all director positions in the district, regardless of whether
20 or not any director's term has expired. The directors elected for the district at the general election
21 shall be elected to serve for staggered terms. Thereafter, directors shall be elected to four-year
22 terms at each subsequent general election to succeed those directors whose terms expire at the
23 end of the year in which the election is held.

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

1 46A-3B-3. As soon as possible following each decennial census of population or any
2 adjustment to a water development district boundary, the Board of Water and Natural Resources
3 shall ascertain whether the number of board members should be adjusted, adjust the same, and
4 redistrict water development district director areas to reflect changes in the population of the
5 water development district so as to assure equitable representation of all areas within the water
6 development district. ~~Such adjusting and redistricting notwithstanding, the water development~~
7 ~~district board shall consist of the appropriate ratio of rural and municipal directors.~~

8 Section 5. This Act is effective on January 1, 2009.

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

587P0717

SENATE APPROPRIATIONS

ENGROSSED NO. **SB 181** - 2/7/2008

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

Introduced by: Senators Greenfield, Bartling, Duenwald, Gant, Garnos, Gray, Hansen (Tom), Hanson (Gary), Hoerth, Knudson, Maher, McNenny, Napoli, Nesselhuf, Olson (Ed), Peterson (Jim), Sutton, Turbak Berry, and Two Bulls and Representatives Nelson, Boomgarden, Cutler, Davis, DeVries, Gilson, Hackl, Haverly, Hills, Jerke, Kirkeby, Koistinen, Krebs, McLaughlin, Noem, Novstrup (Al), Novstrup (David), Peters, Rounds, Street, and Turbiville

1 FOR AN ACT ENTITLED, An Act to create the South Dakota teachers tuition reimbursement
2 program.

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

4 Section 1. There is hereby established the South Dakota teacher tuition reimbursement
5 program.

6 Section 2. Any secondary teacher or any special education teacher who is fully certified
7 pursuant to chapter 13-42 and agrees to teach for a period of at least five academic years in a
8 local school district in an area of critical need as defined by the secretary of education or in an
9 educational cooperative is eligible to participate in the South Dakota teacher tuition
10 reimbursement program.

11 Section 3. Each participating teacher who fulfills the requirements of the program is entitled
12 to receive tuition reimbursement in an amount equal to the resident tuition which the teacher



1 would have paid if the teacher had attended a state university during the teacher's four most
2 recently completed academic years. The amount of reimbursement does not include any interest
3 incurred by the participating teacher.

4 Section 4. Any agreement for the reimbursement of tuition pursuant to this Act shall obligate
5 the school district or educational cooperative to pay a portion of the reimbursement. When the
6 school district or educational cooperative certifies to the secretary of education that it has paid
7 the full amount for which it is obligated, the secretary of the Department of Education shall pay
8 to the teacher the remaining balance of the total tuition reimbursement amount. Reimbursement
9 shall be paid by the department upon the teacher's completion of the five years of teaching as
10 required in this Act. However, the school district or educational cooperative may pay its share
11 of tuition reimbursement in installments during the required five-year period.

12 Section 5. The portion of the tuition reimbursement which the school district or educational
13 cooperative shall pay pursuant to this Act is as follows:

14 (1) For any school district that has a fall enrollment of less than nine hundred and for any
15 educational cooperative, the school district's or educational cooperative's share of any
16 tuition reimbursement is fifty percent; and

17 (2) For any school district that has a fall enrollment of nine hundred or greater, the
18 school district's share of any tuition reimbursement is seventy-five percent.

19 Section 6. Any school district participating in a tuition reimbursement agreement pursuant
20 to this Act is eligible to receive funds, based upon the school district's fall enrollment, from the
21 teacher compensation assistance program established in § 13-3-73 to assist the district in paying
22 its portion of the tuition reimbursement.

23 Section 7. No tuition reimbursement agreement entered into pursuant to this Act is effective
24 until it is filed with and approved by the secretary of education.

1 Section 8. No teacher is eligible to participate in the tuition reimbursement program
2 established in this Act if the teacher previously participated in the program or any other federal
3 or state financial assistance program which obligates the teacher to teach in a specific subject
4 area or geographic region.

5 Section 9. The Department of Education shall promulgate rules pursuant to chapter 1-26 to
6 define areas of critical need for the purposes of this Act, to establish timelines and criteria for
7 the approval of tuition reimbursement agreements, and to provide for the certification of the
8 tuition reimbursement payments made by a school district or educational cooperative.

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

777P0633

SENATE APPROPRIATIONS

ENGROSSED NO. **SB 192** - 2/7/2008

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

Introduced by: Senators Gray, Garnos, and Olson (Ed) and Representatives Rounds, Ahlers, Boomgarden, Brunner, Faehn, Gilson, Gosch, Hackl, Hills, Juhnke, Lucas, Lust, McLaughlin, Olson (Ryan), and Van Norman

1 FOR AN ACT ENTITLED, An Act to authorize the Board of Regents to lease a site for delivery
2 of public higher education in Pierre and to use money appropriated by the Legislature from
3 the higher education facilities fund to make lease payments therefor.

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

5 Section 1. That § 13-51-1.1 be amended to read as follows:

6 13-51-1.1. Notwithstanding any other provisions of law, the Board of Regents may enter into
7 a lease agreement with the Sioux Falls public school district for the lease of a site to be used
8 only for the delivery of public higher education programs and a lease agreement with the Capital
9 University Center Foundation and Advisory Board for the lease of a site to be used for the
10 delivery of public higher education programs. All such academic programs shall be directly
11 provided by the following institutions:

12 (1) University of South Dakota;

13 (2) South Dakota State University;



1 (3) South Dakota School of Mines and Technology;

2 (4) Northern State University;

3 (5) Black Hills State University; or

4 (6) Dakota State University.

5 No postsecondary degrees may be awarded or conferred except by the above institutions.

6 The board may use funds annually appropriated by the Legislature from the higher education

7 facilities fund, created in § 13-51-2, to make payments therefor.

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

400P0701

SENATE APPROPRIATIONS ENGROSSED NO. **SB 201** - 2/7/2008

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

1 FOR AN ACT ENTITLED, An Act to revise certain eligibility requirements for the South
2 Dakota opportunity scholarship.

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

4 Section 1. That § 13-55-31 be amended to read as follows:

5 13-55-31. In order to be eligible for a South Dakota opportunity scholarship award, a student
6 shall:

7 (1) Be a resident of South Dakota at the time of graduation from high school;

8 (2) Have a composite score of ~~24~~ 23, or higher, on the test administered by the American
9 College Testing Program or a ~~verbal-mathematics score of 1070-1100~~, an equivalent
10 score as determined by the Board of Regents on the Scholastic Assessment Test, and
11 the ACT or SAT test shall be taken before the ~~student graduates from high school~~
12 first day of classes in the student's first term of enrollment. The requirement for a
13 composite score of 23 applies to eligible students graduating from high school in
14 2008 or after;

15 (3) Meet the high school course requirements for graduation from the distinguished high



1 school program as provided in ~~Board of Regents Policy Number 2:3(2)(F)~~ section
2 24:43:11:05 of the Administrative Rules of South Dakota as in effect on January 1,
3 ~~2003~~ 2008;

4 (4) Attend a university, college, or technical school that is accredited by the North
5 Central Association of Colleges and Schools and that provides instruction from a
6 campus located in South Dakota; and

7 (5) Enter into the program within five years of graduation from high school or within one
8 year of the student's release from active duty with an active component of the armed
9 forces if the release is within five years of the student's graduation from high school.
10 If a student attends full-time a regionally accredited university, college, or technical
11 school located outside South Dakota and within two years following high school
12 graduation or within two years following release from active military service returns
13 to the state to attend full-time a regionally accredited university, college, or technical
14 school, the student is eligible to receive a partial award.

15 A student is eligible to participate in the South Dakota opportunity scholarship program for
16 the equivalent of four academic years (eight consecutive spring and fall terms) or until the
17 attainment of a baccalaureate ~~or technical~~ degree, whichever comes first. However, the
18 executive director of the Board of Regents may grant exceptions to the continuous enrollment
19 requirements for good cause shown.

20 A student who would have been eligible for the scholarship, but who applies after
21 completing one or more semesters of full-time work at an accredited institution, may be
22 admitted to the program only if the student has complied with the same grade point and credit
23 hour requirements that would apply to program participants. Admission granted under these
24 circumstances may not be retroactive, and eligibility for participation in the program shall be

1 reduced by one semester for each semester of work completed prior to admission to the
2 program.

3 Section 2. That § 13-55-34 be amended to read as follows:

4 13-55-34. In order to maintain eligibility, a student shall:

5 (1) Maintain a cumulative 3.0 grade point average on a 4.0 scale. Cumulative grade point
6 average shall be calculated after the second semester and every semester thereafter.

7 The student shall complete consecutive spring and fall terms in order to remain
8 eligible for continuation of the scholarship program from term to term. A student
9 whose cumulative grade point average falls below 3.0 on a 4.0 scale shall forfeit the
10 scholarship for the subsequent semester and for subsequent semesters until the
11 student has reestablished eligibility. To reestablish eligibility, the student shall
12 comply with all course load, enrollment, and proficiency examination requirements
13 for continued eligibility stated in §§ 13-55-30 to 13-55-35, inclusive, and the student
14 shall achieve a cumulative grade point average of 3.0, or greater, on a 4.0 scale. The
15 scholarship shall be reinstated beginning the semester following that in which the
16 student achieves a cumulative grade point average of 3.0, or greater, on a 4.0 scale.
17 Reinstatement of a scholarship does not extend the time allowed under the
18 scholarship program; any scholarship award forfeited cannot be reclaimed after a
19 student has regained eligibility. A student whose cumulative grade point average falls
20 below 3.0 on a 4.0 scale a second time forfeits the scholarship for all subsequent
21 semesters;

22 (2) Complete at least fifteen credit hours of instruction ~~per semester~~ in six out of eight
23 semesters. The student shall complete at least twelve credit hours of instruction in
24 two out of eight semesters. The student shall enroll in ~~and complete~~ at least fifteen

1 credit hours of instruction in each consecutive spring and fall term. The requirement
2 to enroll in at least fifteen credit hours of instruction does not apply to a student who
3 has earned sufficient credits towards graduation such that fewer than fifteen credit
4 hours are required for the student to meet graduation requirements. If the executive
5 director of the Board of Regents determines that a student's failure to enroll or to
6 maintain continued enrollment occurred as a direct result of legitimate factors outside
7 the student's control, or has resulted from the student's participation in an activity that
8 in the executive director's judgment provides knowledge or experience that will
9 enhance the student's academic pursuits, the executive director may extend the
10 student's eligibility to participate in the program for up to two additional years, if the
11 student does not enroll in a noneligible institution; and

12 (3) Sit for and pass all sections of a college proficiency exam as required by Board of
13 Regents Policy Number 2.28 as in effect on January 1, 2003, at the end of the
14 sophomore year. The Board of regents may review and adjust the proficiency
15 examinations administered in keeping with sound academic practice. If such changes
16 are made, the Board of Regents shall notify all eligible institutions of new testing
17 standards or requirements. If the student fails to pass the proficiency examinations
18 the first time, eligibility is forfeited for continuation in the scholarship program.