

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

400P0337

HOUSE APPROPRIATIONS ENGROSSED NO. **HB 1085** - 2/11/2008

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

1 FOR AN ACT ENTITLED, An Act to authorize the South Dakota Building Authority to
2 provide for the construction, reconstruction, renovation, and modernization of science
3 facilities and laboratories at public universities and to make an appropriation therefor.

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

5 Section 1. It is in the public interest that the South Dakota Building Authority contract for
6 the construction, completion, equipping, including heating, air conditioning, plumbing, water,
7 sewer, electric facilities, sidewalks, parking, landscaping, architectural and engineering services,
8 asbestos abatement, removal of existing roofing and structures, and such other services or
9 actions as may be required to accomplish the projects enumerated in this Act, all at the
10 estimated cost of eighty-four million five hundred thousand dollars. The South Dakota Building
11 Authority may finance up to seventy-four million five hundred thousand dollars of the
12 construction costs through the issuance of revenue bonds, in accordance with this Act and
13 chapter 5-12.

14 Section 2. The projects to be financed, in whole or in part, through the issuance of revenue
15 bonds by the South Dakota Building Authority, are the following:



- 1 (1) The science building at Black Hills State University in Spearfish, South Dakota, for
2 an estimated cost of eight million seventy-eight thousand four hundred dollars;
- 3 (2) The chemistry building replacement at the South Dakota School of Mines and
4 Technology in Rapid City, South Dakota, for an estimated cost of seventeen million
5 nine hundred fifty-seven thousand seven hundred dollars of which ten million dollars
6 shall be provided from proceeds of bonds issued pursuant to subdivision (4) of
7 section 3 of chapter 110 of the 2005 Session Laws;
- 8 (3) The paleontology building at the South Dakota School of Mines and Technology in
9 Rapid City, South Dakota, for an estimated cost of seven million sixty-three thousand
10 nine hundred sixty-three dollars;
- 11 (4) The Agricultural Hall renovation at South Dakota State University in Brookings,
12 South Dakota, for an estimated cost of eight million six thousand two hundred
13 seventy-five dollars;
- 14 (5) The Arthur M. Pardee Laboratory renovation at the University of South Dakota, in
15 Vermillion, South Dakota, for an estimated cost of three million seven hundred
16 ninety-two thousand one hundred four dollars;
- 17 (6) The Churchill-Haines renovation at the University of South Dakota, in Vermillion,
18 South Dakota, for an estimated cost of six million seven hundred fifty-one thousand
19 one hundred forty-five dollars;
- 20 (7) The Akeley Lawrence Science Center renovation at the University of South Dakota,
21 in Vermillion, South Dakota, for an estimated cost of five million two hundred fifty-
22 six thousand seven hundred fifty-one dollars;
- 23 (8) The Habeger Science Center renovation at Dakota State University in Madison,
24 South Dakota, for an estimated cost of six million thirty-eight thousand six hundred

1 seventy dollars;

2 (9) The Dairy Microbiology Building upgrade at South Dakota State University in
3 Brookings, South Dakota, for an estimated cost of eight million two hundred fifty-
4 nine thousand two hundred fifty dollars;

5 (10) The MeWaldt-Jensen Hall science renovation and the Krikac Administration
6 Building science construction at Northern State University in Aberdeen, South
7 Dakota, for an estimated cost of two million seven hundred one thousand nine
8 hundred dollars; and

9 (11) The health sciences simulation center and the science laboratory facilities
10 construction at the University Center in Sioux Falls, South Dakota, for an estimated
11 cost of ten million five hundred ninety-three thousand eight hundred forty-two
12 dollars.

13 Section 3. The authorizations granted by this Act and all necessary appropriations required
14 to finance and to complete the projects remain effective through June 30, 2015.

15 Section 4. No indebtedness, bond, or obligation incurred or created under the authority of
16 this Act may be or may become a lien, charge, or liability against the State of South Dakota, nor
17 against the property or funds of the State of South Dakota within the meaning of the
18 Constitution or statutes of the state.

19 Section 5. The design and construction of the projects authorized in this Act shall be under
20 the general supervision of the Bureau of Administration as provided in chapter 5-14. The
21 executive director of the Board of Regents and the executive secretary of the Building Authority
22 shall approve vouchers and the state auditor shall draw warrants to pay expenditures authorized
23 by this Act.

24 Section 6. The Board of Regents may make and enter into a lease agreement with the

1 Building Authority and make rental payments under the terms thereof, pursuant to chapter 5-12,
2 for the purposes of this Act.

3 Section 7. Rental payments under the terms of the lease authorized in section 8 of this Act
4 shall be paid from appropriations to be made by the Legislature for the payment of such rent to
5 support the purpose and the payment of bonds issued to cover up to thirty-two million five
6 hundred thousand dollars of construction costs authorized in section 1 of this Act. Rental
7 payments under the terms of the lease authorized in section 8 of this Act shall be paid from
8 higher education facility fees or from special student fees assessed by the Board of Regents for
9 the payment of bonds issued to cover up to forty-two million dollars of construction costs
10 authorized in section 1 of this Act.

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

268P0292

SENATE JUDICIARY ENGROSSED NO. **HB 1100** - 2/20/2008

Introduced by: Representatives Vehle, Deadrick, Dennert, and Elliott and Senator Hansen (Tom) at the request of the Interim Committee on Education for Divorcing Parents, Visitation, and Custody Task Force

1 FOR AN ACT ENTITLED, An Act to create a rebuttable presumption against the award of
2 custody to any person with a proven history of domestic abuse.

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

4 Section 1. That § 25-4-45.5 be amended to read as follows:

5 25-4-45.5. In awarding custody involving a minor, the court shall consider ~~a~~:

6 (1) A conviction of domestic abuse as defined in subdivision 25-10-1(1); or ~~a~~

7 (2) A conviction of assault against a person as defined in subdivision 25-10-1(2), except
8 against any person related by consanguinity, but not living in the same household; ~~or~~

9 (3) A history of domestic abuse.

10 The conviction or history of domestic abuse creates a rebuttable presumption that awarding
11 custody to the abusive parent is not in the best ~~interests~~ interest of the minor. A history of
12 domestic abuse may only be proven by greater convincing force of the evidence.

13 Section 2. That chapter 25-4 be amended by adding thereto a NEW SECTION to read as
14 follows:



1 For purposes of this chapter, in determining whether a history of domestic abuse exists, the
2 court's consideration may include the issuance of a protection order against a parent or the arrest
3 of a parent following response of law enforcement to a report of alleged physical harm or bodily
4 injury to a family or household member.

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

718P0299

SENATE STATE AFFAIRS
ENGROSSED NO. **HB 1107** - 2/20/2008

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 dollars;

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

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

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

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

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

10 (1) Initial license fee_; not to exceed seventy-five dollars;

11 (2) Renewal of license fee_; not to exceed sixty dollars;

12 (3) Late renewal fee_; not to exceed ninety-five dollars; and

13 (4) Temporary permit fee_; not to exceed forty dollars.

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

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

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

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

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

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

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

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

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

1 dollars;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 hundred dollars;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 respective professional area who:

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

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

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

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

12 under this chapter shall:

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

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

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

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

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

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

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

23 the license reinstated if:

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

1 after the expiration date of the license;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 statistics;

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

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

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

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

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

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

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

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

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

786P0619

HOUSE APPROPRIATIONS

ENGROSSED NO. **HB 1251** - 2/12/2008

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

Introduced by: Representatives Lust, Ahlers, Brunner, Dreyer, Gilson, Gosch, Haverly, Hills, Howie, Kirkeby, McLaughlin, Olson (Ryan), Pederson (Gordon), Turbiville, and Van Etten and Senators McCracken, Dempster, Garnos, Gray, Katus, Knudson, McNenny, Napoli, and Schmidt (Dennis)

1 FOR AN ACT ENTITLED, An Act to authorize the Board of Regents to acquire land for the
2 Higher Education Center--West River.

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

4 Section 1. The Board of Regents may accept a donation of a site comprising twelve acres
5 more or less for the higher education center--west river from within a tract described as follows:
6 A tract of land situated in Section 27, Township 2 North, Range 8 East of the Black Hills
7 Meridian, Rapid City, Pennington County, South Dakota, more fully described as follows:
8 Commencing at the Section ¼ Corner common to Sections 27 and 28, thence N67°26'47"W, a
9 distance of 586.94 feet, to the point of beginning. Thence, first course: N89°51'35"W, a distance
10 of 812.52 feet; Thence, second course: N00°08'25"E, a distance of 101.13 feet; Thence, third
11 course: N42°04'51"E, a distance of 200.57 feet; Thence, fourth course: N04°15'17"W, a distance
12 of 139.40 feet; Thence, fifth course: N28°03'24"W, a distance of 124.92 feet, to a point on the
13 southerly edge of Chicago and North Western Railroad Right-of-Way; Thence, sixth course:



1 along the southerly edge of said Railroad Right-of-way, curving to the left, on a curve with a
2 radius of 5779.58 feet, a delta angle of $07^{\circ}34'45''$, a length of 764.53 feet, a chord bearing of
3 $N58^{\circ}09'28''E$, and chord distance of 763.98 feet; Thence, seventh course: curving to the right,
4 on a curve with a radius of 462.00 feet, a delta angle of $03^{\circ}55'30''$, a length of 31.65 feet, a
5 chord bearing of $S36^{\circ}20'35''E$, and chord distance of 31.64 feet; Thence, eighth course: curving
6 to the left, on a curve with a radius of 55.00 feet, a delta angle of $77^{\circ}48'49''$, a length of 74.70
7 feet, a chord bearing of $S24^{\circ}34'19''E$, and chord distance of 69.09 feet; Thence, ninth course:
8 curving to the right, on a curve with a radius of 30.00 feet, a delta angle of $40^{\circ}07'48''$, a length
9 of 21.01 feet, a chord bearing of $S43^{\circ}24'49''E$, and chord distance of 20.59 feet; Thence, tenth
10 course: curving to the right, on a curve with a radius of 462.00 feet, a delta angle of $23^{\circ}29'20''$,
11 a length of 189.40 feet, a chord bearing of $S11^{\circ}36'15''E$, and chord distance of 188.08 feet;
12 Thence, eleventh course: $S00^{\circ}08'25''W$, a distance of 616.80 feet, to the point of beginning.

13 The authorization granted by this section is contingent upon the preparation of a plat of the
14 tract to be donated and delivery of an instrument of transfer that can be recorded.

15 Section 2. Notwithstanding the limitations of § 5-2-1, and using other funds at its disposal,
16 the Board of Regents may buy an option or a right of first refusal to purchase contiguous lands
17 comprising approximately nineteen acres, provided that no purchase or other acquisition may
18 take place without the prior authorization of the Legislature.

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

516P0609

HOUSE AGRICULTURE AND NATURAL RESOURCES

ENGROSSED NO. **HB 1263** - 2/12/2008

Introduced by: Representatives Buckingham, Boomgarden, Brunner, Davis, DeVries, Hackl, Hargens, Howie, Juhnke, Koistinen, Olson (Betty), and Wick and Senators Greenfield, Abdallah, Maher, Peterson (Jim), and Schmidt (Dennis)

1 FOR AN ACT ENTITLED, An Act to establish a hunter mentoring program, to authorize
2 hunting under certain conditions by persons less than sixteen years of age, and to authorize
3 the Game, Fish and Parks Commission to promulgate rules.

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

5 Section 1. That chapter 41-6 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 Notwithstanding any provisions of Title 41 to the contrary, a resident of this state who is at
8 least ten and less than sixteen years of age is not required to possess a hunting license in order
9 to hunt if accompanied by a hunting mentor. A hunting mentor is the child's parent or guardian
10 or any other competent adult who has the written consent of the child's parent or guardian. The
11 hunting mentor shall be a resident of this state, shall be unarmed except as provided in this
12 section, shall have successfully completed a hunter safety or hunter education course that meets
13 the requirements of chapter 41-7, and shall possess a valid hunting license for the game being
14 hunted. A child who hunts pursuant to this section shall be under the immediate physical control



1 and direct supervision of a hunting mentor at the time the child discharges a firearm or operates
2 a bow and arrow in the act of hunting. A hunting mentor may accompany no more than one
3 mentored child at any one time. No hunting party that includes a mentored child may include
4 more than six persons, regardless of whether or not members of the hunting party are hunting
5 or possess or operate firearms. A child who hunts pursuant to this section is subject to all
6 requirements, restrictions, and penalties specified in this title and in the rules promulgated
7 pursuant to this title with respect to the species being hunted, except that the combined number
8 of animals taken or possessed by the child and the hunting mentor may not exceed the number
9 of animals authorized under licenses held by the hunting mentor. A mentored child may not take
10 big game under the provisions of this section except antlerless deer, turkey, and doe-fawn
11 antelope. No big game may be taken by a mentored child unless the child's parent or legal
12 guardian has been issued a license that designates the child as a mentored child who is
13 authorized to exercise the privileges granted by the license. The license is valid only for the
14 mentored child and is not transferable to another person. Application for or issuance of such
15 licenses does not affect the eligibility of the parent or legal guardian for any other big game
16 license. The requirement in this section that the hunting mentor be unarmed does not prohibit
17 the hunting mentor from possessing a permitted concealed pistol or other legally possessed
18 handgun.

19 The Game, Fish and Parks Commission shall promulgate rules pursuant to chapter 1-26 to
20 establish criteria and conditions governing the hunter mentoring program established in this Act.

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

293P0727

HOUSE ENGROSSED NO. **HB 1314** - 2/14/2008

Introduced by: Representatives Olson (Ryan) and Rounds and Senator Gray

1 FOR AN ACT ENTITLED, An Act to authorize the Department of Game, Fish and Parks to sell
2 and convey real and personal property located at the Spring Creek Recreation Area and to
3 declare an emergency.

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

5 Section 1. Notwithstanding the provisions of chapters 5-9, 5-23, and 5-24, the Department
6 of Game, Fish and Parks may sell its interest in the severed structures and personal property
7 used in the operation of the Spring Creek marina at the Spring Creek Recreation Area, Hughes
8 County, South Dakota, to the concessionaire selected pursuant to the rules promulgated by the
9 Game, Fish and Parks Commission.

10 Section 2. The property set forth in section 1 of this Act shall be sold for no less than the fair
11 market value as determined by an appraisal or the price paid by the Department of Game, Fish
12 and Parks for the property, whichever is greater.

13 Section 3. The proceeds of the sale shall be deposited in the parks and recreation revolving
14 fund.

15 Section 4. Whereas, this Act is necessary for the support of the state government and its



1 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in
2 full force and effect from and after its passage and approval.

3 Section 5. This Act is repealed on July 1, 2009.

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

400P0737

SENATE STATE AFFAIRS
ENGROSSED NO. **HB 1320** - 2/20/2008

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

1 FOR AN ACT ENTITLED, An Act to provide tax incentives for certain wind energy facilities
2 and energy transmission equipment.

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

4 Section 1. That chapter 10-35 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Terms as used in sections 1 to 7 of this Act, inclusive, mean:

7 (1) "Collector system," all property used or constructed to interconnect individual wind
8 turbines within a wind farm into a common project, including step-up transformers,
9 electrical collection equipment, collector substation transformers, and
10 communication systems;

11 (2) "Company," any person, corporation, limited liability company, association,
12 company, partnership, political subdivision, rural electric cooperative, or any group
13 or combination acting as a unit;

14 (3) "Nameplate capacity," the number of kilowatts a wind farm can produce, as assigned
15 to the power units in the wind farm by the manufacturer and determined by the



1 secretary;

2 (4) "Wind farm," all real or personal property used or constructed for the purpose of
3 producing electricity for commercial purposes utilizing the wind as an energy source
4 and with a nameplate capacity of at least five thousand kilowatts. The term includes
5 the collector system;

6 (5) "Transmission line," an electric transmission line and associated facilities including
7 the collector system, with a design of one hundred fifteen kilovolts or more.

8 Section 2. That chapter 10-35 be amended by adding thereto a NEW SECTION to read as
9 follows:

10 Any company owning or holding under lease, or otherwise, real or personal property used,
11 or intended for use, as a wind farm producing power for the first time on or after July 1, 2007,
12 shall pay the alternative annual taxes provided in sections 3 and 4 of this Act. The alternative
13 taxes imposed by sections 3 and 4 of this Act are in lieu of all taxes levied by the state, counties,
14 municipalities, school districts, or other political subdivisions of the state on the personal and
15 real property of the company which is used or intended for use as a wind farm, but are not in
16 lieu of the retail sales and service tax imposed by chapter 10-45, the use tax imposed by chapter
17 10-46, or any other tax.

18 Section 3. That chapter 10-35 be amended by adding thereto a NEW SECTION to read as
19 follows:

20 Any company owning or holding under lease, or otherwise, real or personal property used,
21 or intended for use, as a wind farm producing power for the first time on or after July 1, 2007,
22 shall pay an annual tax equal to three dollars multiplied by the nameplate capacity of the wind
23 farm. The tax shall be imposed beginning the first calendar year the wind farm generates gross
24 receipts. The tax shall be paid annually to the secretary the first day of February of the following

1 year. The tax for the first calendar year shall be prorated based upon the percentage of the
2 calendar year remaining after the company generates gross receipts. Except as otherwise
3 provided in this Act, the provisions of chapter 10-59 apply to the administration of the tax.

4 Section 4. That chapter 10-35 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Any company owning or holding under lease, or otherwise, real or personal property used,
7 or intended for use, as a wind farm producing power for the first time on or after July 1, 2007,
8 shall pay an annual tax of two percent of the gross receipts of the wind farm. For purposes of
9 this section, the gross receipts of the wind farm is its production of electricity in kilowatt hours
10 multiplied by the South Dakota electricity base rate of \$0.0475 per kilowatt hour in 2008, with
11 the electricity base rate of \$0.0475 per kilowatt hour increasing by 2.5 percent on an annual
12 basis thereafter, as determined by the secretary. The owner of a wind farm subject to tax under
13 this section shall file a report with the secretary detailing the amount of electricity in
14 kilowatt-hours that was produced by the wind farm for the previous calendar year. The secretary
15 shall prescribe the form of the report. The tax for the gross receipts generated in a calendar year
16 shall become due and be payable to the secretary on the first day of February of the following
17 year. Except as otherwise provided in this Act, the provisions of chapter 10-59 apply to the
18 administration of the tax.

19 Section 5. That chapter 10-35 be amended by adding thereto a NEW SECTION to read as
20 follows:

21 The secretary shall deposit the tax imposed by sections 3 and 4 of this Act into the wind
22 energy tax fund. There is created in the state treasury the wind energy tax fund.

23 Section 6. That chapter 10-35 be amended by adding thereto a NEW SECTION to read as
24 follows:

1 The secretary shall distribute all of the tax deposited in the wind energy tax fund pursuant
2 to section 3 of this Act and twenty percent of the tax deposited in the wind energy tax fund
3 pursuant to section 4 of this Act to the county treasurer where the wind farm is located. If the
4 wind energy tax fund contains less than twenty percent of the gross receipts tax from section 4
5 of this Act, due to the transmission line rebate under section 7 of this Act, the secretary shall
6 distribute the remainder of funds after the rebate to the county treasurer where the wind farm
7 is located. If a wind farm is located in more than one county, each county shall receive the same
8 percentage of the tax as the percentage of wind towers in the wind farm located in the county.
9 Upon receipt of the taxes, the county auditor shall apportion the tax among all taxing
10 jurisdictions where a wind tower is located. The tax shall be apportioned in the same manner
11 as agricultural real property taxes would have been apportioned between the taxing jurisdictions.
12 The secretary shall distribute the money to the counties on or before the first day of May.

13 Section 7. That chapter 10-35 be amended by adding thereto a NEW SECTION to read as
14 follows:

15 Any company requiring transmission lines or wind farm collector systems or both in South
16 Dakota for a wind farm or a power generation facility as described in § 10-35-1.3, is eligible for
17 a partial rebate of the tax paid under section 4 of this Act. The company shall apply for the
18 rebate on forms prescribed by the secretary. The total amount of tax rebated shall be no more
19 than fifty percent of the cost of the transmission lines and wind farm collector systems in South
20 Dakota.

21 The maximum rebate any company may receive in one year is ninety percent of the tax paid
22 under section 4 of this Act for the first five years and fifty percent of the tax paid under section
23 4 of this Act for the next five years. The secretary shall determine when the wind farm is
24 commercially operational. No wind farm may receive a rebate under this section after this ten

1 year period.

2 The secretary shall rebate the tax from the wind energy tax fund prior to the distribution of
3 any money as provided in section 6 of this Act. The secretary may provide a tax credit, in lieu
4 of full payment of the gross receipts tax, of up to eighty percent of the transmission rebate value
5 that has been approved by the secretary. Any revenue in the wind energy tax fund after the
6 rebates are paid shall be deposited in the property tax reduction fund.

7 Section 8. That § 10-4-36 be amended to read as follows:

8 10-4-36. ~~At~~ For wind energy properties with less than five thousand kilowatts of nameplate
9 capacity, all real property used or constructed for the purpose of producing electricity for
10 commercial purposes that utilizes the wind as an energy source is classified for tax purposes as
11 wind energy property and shall be assessed and taxed in the same manner as other real property
12 and shall be locally assessed by the county director of equalization pursuant to § 10-3-16. For
13 the purposes of §§ 10-4-36 to 10-4-38, inclusive, real property includes the base, foundation,
14 tower, and substations. Real property does not include the wind turbine or blades attached
15 thereto.

16 Section 9. That § 10-4-37 be amended to read as follows:

17 10-4-37. Any wind energy property of a commercial wind power production facility with
18 less than five thousand kilowatts of nameplate capacity shall be assessed under the provisions
19 of this chapter.

20 Section 10. That chapter 10-46C be amended by adding thereto a NEW SECTION to read
21 as follows:

22 Any project receiving a permit for the payment of the tax pursuant to chapter 10-46C is not
23 eligible for the refund provided in chapter 10-45B.

24 Section 11. That chapter 10-45B be amended by adding thereto a NEW SECTION to read

1 as follows:

2 Any project receiving a permit for the refund of the tax pursuant to chapter 10-45B is not
3 eligible for the permit provided in chapter 10-46C.

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

400P0220

HOUSE ENGROSSED NO. **SB 44** - 2/20/2008

Introduced by: The Committee on Agriculture and Natural Resources at the request of the
Public Utilities Commission

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the licensing and
2 regulation of grain dealers and buyers.

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

4 Section 1. That § 49-45-1 be amended to read as follows:

5 49-45-1. Before transacting the business of a grain ~~dealer~~ buyer in this state, a person shall
6 obtain a grain ~~dealer~~ buyer license from the commission. A violation of this section is a ~~Class~~
7 2 Class 1 misdemeanor. Each purchase of grain without a license is a separate offense.

8 Operation as a grain ~~dealer~~ buyer without a license may be enjoined upon complaint of the
9 commission. In addition, the commission may assess a civil fine against an unlicensed grain
10 ~~dealer~~ buyer in the amount of one ~~hundred thousand~~ dollars for each purchase of grain up to a
11 maximum fine of ~~five~~ twenty thousand dollars.

12 Section 2. That § 49-45-1.1 be amended to read as follows:

13 49-45-1.1. Terms used in this chapter mean:

14 (1) "Commission," the Public Utilities Commission;

15 (2) "Grain," grain, grain sorghums, beans, and oil seeds. However, the term does not



1 include grain that has been cleaned, processed, and specifically identified for an
 2 intended use of planting for reproduction and for which a grain warehouse receipt has
 3 ~~not been issued or grain purchased to feed livestock;~~

4 (3) ~~"Grain dealer," any person who buys grain for the purpose of resale. However,~~
 5 ~~nothing in this chapter applies to the isolated or occasional resale of grain by a person~~
 6 ~~who does not hold himself or herself out as engaging in the business of reselling~~
 7 ~~grain or to a person who purchases grain for the person's own use or consumption.~~
 8 ~~The word, use, or the word, consumption, as used in this subdivision, does not mean~~
 9 ~~the sale of the grain at retail or wholesale~~ buyer," any person who purchases grain for
 10 the purpose of reselling the unprocessed grain or who purchases three hundred
 11 thousand dollars worth or more of grain directly from producers in a calendar year.
 12 However, nothing in this chapter applies to the isolated or occasional resale of grain
 13 by a person who does not hold himself or herself out as engaging in the business of
 14 reselling grain;

15 (4) "Person," any natural person, firm, corporation, company, limited liability company,
 16 partnership, association, joint stock company or the lessee, trustee, or receiver
 17 appointed by any court for any one of the foregoing;

18 (5) "Voluntary credit sale," a sale of grain or seeds pursuant to which the sale price is to
 19 be paid more than thirty days after the delivery or release of the grain for sale,
 20 including those contracts commonly referred to as deferred-payment contracts,
 21 deferred-pricing contracts and price-later contracts.

22 Section 3. That § 49-45-3 be amended to read as follows:

23 49-45-3. ~~Every~~ Each license issued pursuant to § 49-45-1 expires on the next June thirtieth
 24 following the issuance of the license. The ~~Public Utilities Commission~~ commission may at any

1 time for cause shown revoke or suspend any grain ~~dealer~~ buyer license. However, ~~such the~~ grain
2 ~~dealer~~ buyer has the right of appeal from such decisions as provided by chapter 1-26 for the
3 review of final decisions of the commission.

4 Section 4. That § 49-45-6 be amended to read as follows:

5 49-45-6. The ~~Public Utilities Commission~~ commission shall supervise the business of grain
6 ~~dealers~~ buyers in this state and administer the laws relating thereto. The commission may
7 promulgate rules, pursuant to chapter 1-26₂, concerning:

- 8 (1) The form of a grain ~~dealer's~~ buyer's bond and application and the information
9 required to be included for licensing;
- 10 (2) Requirements for posting grain ~~dealer's~~ buyer's licenses;
- 11 (3) Requirements and procedures for obtaining, placing, and returning grain ~~dealer~~ buyer
12 decals and replacement decals;
- 13 (4) Notice requirements to sellers who enter into voluntary credit sale agreements; ~~and~~
- 14 (5) Requirements for filing financial statements with the commission and the financial
15 standards by which the statements are approved when considering whether to license
16 a grain ~~dealer~~ buyer; and
- 17 (6) Requirements for grain buyers to provide information to sellers regarding the statutes
18 and rules relating to grain buyers.

19 Section 5. That § 49-45-7 be amended to read as follows:

20 49-45-7. An application for a grain ~~dealer~~ buyer license shall be filed with the commission
21 and shall be in a form prescribed by the commission. The application shall set forth the name
22 of each owner or principal in the management of the business. If the applicant is a corporation,
23 the application shall include the name of the president, secretary, and treasurer of the
24 corporation. The application shall also include the location of the principal office or place of

1 business and any additional places of business of the applicant and the number of tractors, truck
2 tractors, or straight trucks that will be used in the transportation of grain purchased under this
3 chapter.

4 Upon receipt of an application and sufficient bond as required by § 49-45-9, the commission
5 may grant the license applied for or may, for good cause shown and after notice and an
6 opportunity for hearing, deny the issuance of the license.

7 Section 6. That chapter 49-45 be amended by adding thereto a NEW SECTION to read as
8 follows:

9 An applicant may apply for a Class A grain buyer's license or a Class B grain buyer's license.
10 No grain buyer with a Class B grain buyer's license may purchase grain in excess of ten million
11 dollars for the annual licensed period or enter into voluntary credit sale contracts. The
12 commission shall require an applicant for a Class A grain buyer's license to submit a more
13 detailed review of its financial condition than an applicant for a Class B grain buyer's license.

14 Section 7. That § 49-45-9 be amended to read as follows:

15 49-45-9. Before any grain ~~dealer~~ buyer license is issued by the commission, the applicant
16 shall file with the commission a bond conditioned to secure the faithful performance of the
17 applicant's obligations as a grain ~~dealer~~ buyer and full and unreserved compliance with the laws
18 of this state and the rules of the commission, relating to the purchase of grain by the grain ~~dealer~~
19 buyer. The bond is for the specific purpose of protecting persons selling grain to the grain ~~dealer~~
20 buyer. However, the bond may not benefit any person entering into a voluntary credit sale with
21 a grain ~~dealer~~ buyer. Any person who does business as a grain ~~dealer~~ buyer without a bond is
22 guilty of a ~~Class 2~~ Class 1 misdemeanor. Each day a person conducts the business of a grain
23 ~~dealer~~ buyer without a bond is a separate offense.

24 ~~The minimum bond required to obtain a grain dealer license is fifty thousand dollars. The~~

1 amount of the bond for a Class A or Class B grain buyer's license shall be based on a rolling
 2 average of the dollar amount of grain purchased by the applicant in South Dakota during the last
 3 three calendar years. For a new grain buyer, the first year's bond shall be based on projected
 4 purchases. For a grain buyer with less than three years experience as a grain buyer, the bond
 5 shall be based on the average actual purchases made by the grain buyer in all of its previous
 6 years as a grain buyer. The bond applies to all grain purchases for all of the grain buyer's
 7 business locations.

8 The amount of the bond for a Class A grain buyer's license is:

<u>Dollar Amount of Grain Purchased</u>	<u>Bond Requirement</u>
<\$2,000,000	\$50,000
\$2,000,001 - \$10,000,000	\$75,000
\$10,000,001 - \$50,000,000	\$100,000
\$50,000,001 - \$100,000,000	\$200,000
>\$100,000,000	\$300,000

15 The amount of the bond for a Class B grain buyer's license is:

<u>Dollar Amount of Grain Purchased</u>	<u>Bond Requirement</u>
<\$2,000,000	\$50,000
\$2,000,001 - \$10,000,000	\$75,000

19 ~~If the commission finds, after an opportunity for notice and hearing, that the bond filed by~~
 20 ~~a grain dealer, pursuant to this section, is inadequate because of circumstances peculiar to that~~
 21 ~~grain dealer, the amount of that bond may be increased to such amount as the commission~~
 22 ~~determines. In addition, the The grain dealer buyer may stipulate to a higher bond amount~~
 23 ~~requested by the commission.~~

24 Section 8. That chapter 49-45 be amended by adding thereto a NEW SECTION to read as
 25 follows:

1 If the commission determines, because a corporate surety company becomes insolvent or
2 ceases to write grain buyer bonds in this state, that a bond in the sum required by § 49-45-9
3 cannot be executed, the commission may, by rule promulgated pursuant to chapter 1-26,
4 authorize the filing of other financial documents in lieu of a corporate surety bond.

5 Section 9. That § 49-45-10 be amended to read as follows:

6 49-45-10. A grain ~~dealer~~ buyer shall pay the purchase price to the owner or ~~his~~ the owner's
7 agent for grain upon delivery or demand of the owner or agent unless payment is to be made in
8 accordance with the terms of a voluntary credit sale which complies with the requirements of
9 this chapter and rules promulgated thereto.

10 Section 10. That chapter 49-45 be amended by adding thereto a NEW SECTION to read as
11 follows:

12 Upon receiving grain, a grain buyer shall issue to the seller an original uniform scale ticket
13 or comparable receipt for each load of grain received. Tickets or receipts shall be numbered
14 consecutively and a copy of each ticket or receipt shall be retained for six years.

15 Section 11. That § 49-45-11 be amended to read as follows:

16 49-45-11. All voluntary credit sales of grain entered into by a grain ~~dealer~~ buyer shall be in
17 writing. The ~~Public Utilities Commission~~ commission may, by ~~rule~~ rules promulgated pursuant
18 to chapter 1-26, prescribe the form and content of such writings. If a grain buyer's license is
19 terminated or not renewed, the grain buyer shall pay for grain subject to a voluntary credit sale
20 within ten days after the license expiration date.

21 Section 12. That § 49-45-13 be amended to read as follows:

22 49-45-13. The ~~Public Utilities Commission~~ commission shall cause the business facilities
23 of every grain ~~dealer~~ buyer, whether licensed or unlicensed, to be inspected at such times as it
24 the commission considers necessary, ~~by one or more members of the commission or by one of~~

1 ~~its agents or employees, who.~~ The inspector shall report in writing to the commission the result
2 of ~~such the~~ examination. The ~~commission or its agents or employees~~ inspector may at any time
3 during ~~ordinary~~ business hours enter any ~~office~~ structure, vehicle, or enclosure in which the
4 books ~~and~~ or accounts of any grain ~~dealer~~ buyer are kept, and may examine all the books or
5 accounts relating to the transactions of ~~such the~~ grain ~~dealer~~ buyer either within or without the
6 state. The commission may, in all matters arising under this chapter, exercise the power of
7 subpoena and examine witnesses in accordance with chapter 1-26.

8 Section 13. That chapter 49-45 be amended by adding thereto a NEW SECTION to read as
9 follows:

10 Upon completing an inspection, an inspector may issue a memorandum of adjustments. The
11 commission may assess a civil fine in the amount of two hundred dollars for failure to comply
12 with the memorandum of adjustments within thirty days. After thirty days, each day that the
13 memorandum goes uncorrected may be considered a separate offense.

14 Section 14. That § 49-45-14 be amended to read as follows:

15 49-45-14. Every grain ~~dealer~~ buyer licensed ~~as such~~ in this state shall, at such times as the
16 ~~Public Utilities Commission~~ commission requires, furnish the commission on forms prepared
17 by the commission, reports showing the facts and information required by the commission. The
18 reports are not for public inspection, but the commission may, upon request, furnish the total
19 of the figures shown on such reports ~~when~~ if the figures requested are for not less than four
20 grain ~~dealers~~ buyers. The commission may also ~~call for, from time to time, and~~ require that a
21 grain ~~dealer~~ buyer provide; any other information regarding the business of the grain ~~dealer~~
22 buyer. A violation of this section is a ~~Class 2~~ Class 1 misdemeanor.

23 Section 15. That § 49-45-16 be amended to read as follows:

24 49-45-16. ~~If any~~ The commission may immediately suspend the license of a grain buyer and

1 the grain buyer shall surrender the license to the commission if:

2 (1) The grain dealer buyer, whether licensed or unlicensed, refuses, neglects, or is
3 unable, upon proper demand, to redeem any scale ticket issued by ~~him~~ the grain
4 buyer, through redelivery or cash payment, ~~or if any;~~

5 (2) The grain dealer buyer refuses, neglects, or is unable to provide ~~the requisite a~~ bond
6 ~~to procure a grain dealer's license, the commission shall~~ in an amount required by the
7 commission; or

8 (3) The commission has knowledge of any act of insolvency, including the filing of a
9 petition in bankruptcy naming the grain buyer as debtor.

10 Within fifteen days the grain buyer may request a hearing pursuant to chapter 1-26 to
11 determine if the license should be revoked. If no request is made within fifteen days, the
12 commission shall revoke the license. If the commission determines it is necessary, the
13 commission may apply to the circuit court in the county in which the grain dealer buyer operates
14 for that court to appoint a receiver. The receiver shall have has such powers and duties as the
15 court, from time to time, may direct.

16 Section 16. That § 49-45-17 be amended to read as follows:

17 49-45-17. Any person injured by the breach of any obligation of a grain dealer buyer, for the
18 performance of which a bond has been given under any of the provisions of this chapter, may
19 sue on such bond in ~~his~~ the person's own name in any court of competent jurisdiction to recover
20 any damages ~~he~~ the person may have sustained by reason of such breach.

21 Section 17. That § 49-45-18 be amended to read as follows:

22 49-45-18. If the commission becomes aware of any act by any grain dealer buyer as
23 described in § 49-45-16, ~~or has knowledge of any act of insolvency, including, but not limited~~
24 ~~to, the filing of a petition in bankruptcy naming the grain dealer as debtor,~~ the commission shall

1 may:

- 2 (1) ~~Take immediate possession of the grain dealer's facility, and undertake~~ Undertake an
3 immediate audit and verify the names and addresses of all outstanding scale ticket
4 holders as revealed by the audit, and audit and certify the quantity and class or classes
5 of grain therein;
- 6 (2) Immediately notify the surety named in the grain ~~dealer~~ buyer bond, if any, held by
7 such grain ~~dealer~~ buyer.

8 Section 18. That § 49-45-19 be amended to read as follows:

9 49-45-19. Upon revocation, termination, or cancellation of a grain ~~dealer~~ buyer license, any
10 claim against the grain ~~dealer~~ buyer arising under this chapter shall be made in writing with the
11 commission, grain ~~dealer~~ buyer and surety on the grain ~~dealer~~ buyer bond within six months
12 after receiving notice of revocation, termination, or cancellation. Failure to make a timely claim
13 shall relieve the surety of all obligations to the claimant. However, this section may not be
14 construed to reduce the aggregate liability of the surety to other claimants below the face amount
15 of the bond then in effect. Upon revocation of a grain ~~dealer~~ buyer license, the commission shall
16 cause notice of ~~such~~ the revocation to be published once each week for two consecutive weeks
17 in a newspaper of general circulation in each of the counties in which the licensee maintains a
18 business location and in a newspaper of general circulation within the state and shall cause
19 notice of ~~such~~ the revocation to be sent by certified mail to all scale ticket holders named in the
20 audit prepared pursuant to § 49-45-18. The notice shall state the name and address of the grain
21 ~~dealer~~ buyer, the effective date of revocation, and the name and address of the surety on the
22 grain ~~dealer~~ buyer bond. The notice shall also state that any claims against the grain ~~dealer~~ buyer
23 shall be made in writing and sent by ordinary mail to the commission, the grain ~~dealer~~ buyer and
24 the surety on the grain ~~dealer~~ buyer bond within six months after receiving notice of revocation.

1 The provisions of this section do not apply if a receiver is appointed as provided in § 49-45-16
2 before the expiration of six months after receiving notice of revocation, termination, or
3 cancellation of the license.

4 Section 19. That § 49-45-20 be repealed.

5 ~~49-45-20. Every grain dealer shall keep posted at all times in a conspicuous place in his~~
6 ~~facilities a printed copy of the statutes relating to, and the rules of the commission relating to~~
7 ~~the conduct of grain dealers. A violation of this section is a Class 2 misdemeanor.~~

8 Section 20. That chapter 49-45 be amended by adding thereto a NEW SECTION to read as
9 follows:

10 A grain buyer with a Class A license shall keep all company owned grain in the grain buyer's
11 possession insured at current market value of the grain against loss by fire, windstorm, and
12 extended coverage risks. The grain buyer shall furnish the commission with proof of the
13 insurance when the grain buyer applies for a license. A violation of this section is a Class 1
14 misdemeanor.

15 Section 21. That chapter 49-45 be amended by adding thereto a NEW SECTION to read as
16 follows:

17 A grain buyer shall keep all records of grain purchased and all contracts issued and canceled
18 in a safe place. The records shall be kept current and open for inspection by the commission.
19 Each record shall be retained for a period of six years.

20 Section 22. That chapter 49-45 be amended by adding thereto a NEW SECTION to read as
21 follows:

22 A grain buyer shall notify the commission, within twenty-four hours, if the facility of a
23 facility-based grain buyer is destroyed or substantially damaged.

24 Section 23. That § 49-45-21 be amended to read as follows:

1 49-45-21. The commission may contract with the Wheat Commission pursuant to § 38-10-
2 41, with the South Dakota Oilseeds Council pursuant to § 38-27-19, the Soybean Research and
3 Promotion Council pursuant to § 38-29-14, the South Dakota Corn Utilization Council pursuant
4 to § 38-32-24, and the South Dakota Pulse Crop Council pursuant to § 38-34-21. Under the
5 terms of any such contract, the commission may inspect the records of licensed grain ~~dealers~~
6 buyers to determine compliance with assessment and checkoff requirements imposed by
7 chapters 38-10, 38-27, 38-29, and 38-32 and the provisions of chapter 38-34.

8 Section 24. That § 49-43-34 be repealed.

9 ~~49-43-34. Authorized inspectors employed by the Public Utilities Commission may place~~
10 ~~a person under arrest without warrant for a violation of any provision of this chapter which is~~
11 ~~committed in the presence of such inspector. Commission inspectors having been given such~~
12 ~~limited arrest powers are not "law enforcement officers" for the purposes of § 23-3-27.~~

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

580P0479

HOUSE JUDICIARY ENGROSSED NO. **SB 84** - 2/15/2008

Introduced by: Senator Knudson and Representative Cutler

1 FOR AN ACT ENTITLED, An Act to revise certain miscellaneous provisions of the trust
2 statutes.

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

4 Section 1. That § 55-1-20 be amended to read as follows:

5 55-1-20. Subject to the provisions of ~~§~~ §§ 55-1-21 and 55-1-22, a trust may be performed
6 ~~by the trustee for twenty-one years but no longer, whether or not the terms of the trust~~
7 ~~contemplate a longer duration~~ if the trust is for a specific lawful noncharitable purpose or for
8 lawful noncharitable purposes to be selected by the trustee.

9 Section 2. That § 55-1-24 be amended to read as follows:

10 55-1-24. Terms used in §§ 55-1-24 to 55-1-43, inclusive, mean:

11 (1) "Beneficial interest," is limited to mean a ~~current~~ distribution interest or a remainder
12 interest. A beneficial interest specifically excludes a power of appointment or a
13 power reserved by the settlor;

14 (2) "Beneficiary," a person that has a present or future beneficial interest in a trust,
15 vested or contingent. The holder of a power of appointment is not a beneficiary;



- 1 (3) "~~Current~~ Distribution beneficiary," a beneficiary who, ~~on the date the beneficiary's~~
2 ~~qualification is determined,~~ is an eligible distributee or permissible distributee of
3 trust income or principal;
- 4 (4) "~~Current distribution~~ Distribution interest," a distribution interest held by a ~~current~~
5 distribution beneficiary. A distribution interest may be a current distribution interest
6 or a future distribution interest. A ~~current~~ distribution interest may be classified as
7 a mandatory interest, a support interest, or a discretionary interest;
- 8 (5) "Power of appointment," an inter-vivos or testamentary power to direct the
9 disposition of trust property, other than a distribution decision by a trustee to a
10 beneficiary. Powers of appointment are held by a person to whom a power has been
11 given, not the settlor;
- 12 (6) "Remainder interest," an interest where a trust beneficiary will receive the property
13 outright at some time during the future;
- 14 (7) "Reserved power," a power held by the settlor.

15 Section 3. That chapter 55-1 be amended by adding thereto a NEW SECTION to read as
16 follows:

17 For purposes of §§ 55-1-24 to 55-1-43, inclusive, improper motive is demonstrated by action
18 such as the following:

- 19 (1) A trustee refusing to make or limiting distributions to beneficiaries other than the
20 trustee due to the trustee's self interest when the trustee also holds a beneficial
21 interest subject to a discretionary interest; or
- 22 (2) A trustee making a distribution in excess of an ascertainable standard to himself or
23 herself as beneficiary when the trustee is restricted by an ascertainable standard in the
24 trust.

1 Section 4. That § 55-1-30 be amended to read as follows:

2 55-1-30. Neither a ~~current~~ distribution interest nor a remainder interest are ~~factors~~ relevant
3 in the equitable division of marital property.

4 Section 5. That § 55-1-37 be amended to read as follows:

5 55-1-37. A spendthrift provision applies to both ~~current~~ distribution interests and remainder
6 ~~interest~~ interests. A spendthrift provision is a material provision of a trust.

7 Section 6. That § 55-1-38 be amended to read as follows:

8 55-1-38. A ~~current~~ distribution interest can be classified in three ways:

- 9 (1) As a mandatory interest, which is a ~~current~~ distribution interest where the trustee has
10 no discretion in determining whether the distribution shall be made, or the amount
11 or timing of such distribution;
- 12 (2) As a support interest, which is not a mandatory interest but still contains mandatory
13 language such as "shall make distributions" and is coupled with a standard capable
14 of judicial interpretation; or
- 15 (3) As a discretionary interest, which is any interest where a trustee has any discretion
16 to make or withhold a distribution.

17 A discretionary interest includes permissive language such as "may make distributions" or
18 it may include mandatory language that is negated by the uncontrolled language of the trustee,
19 such as "the trustee shall make distributions in the trustee's sole and absolute discretion." A
20 support interest that includes mandatory language such as "shall" but is subsequently qualified
21 by discretionary language shall be classified as a discretionary interest and not as a support
22 interest. A discretionary interest is any interest that is not a mandatory or a support interest.

23 Section 7. That § 55-1-40 be amended to read as follows:

24 55-1-40. Although not the exclusive means to create a ~~current~~ distribution interest, absent

1 clear and convincing evidence to the contrary, the following language by itself results in the
2 following classification of ~~current beneficial~~ distribution interest:

3 (1) Mandatory interest:

4 (a) "All income shall be distributed to (named beneficiary)"; or

5 (b) "One hundred thousand dollars a year shall be distributed to (named
6 beneficiary)";

7 (2) Support interest:

8 (a) "The trustee shall make distributions for health, education, maintenance, and
9 support";

10 (3) Discretionary interest:

11 (a) "The trustee, may, in the trustee's sole and absolute discretion make
12 distributions for health, education, maintenance, and support";

13 (b) "The trustee, in the trustee's sole and absolute discretion, shall make
14 distributions for health, education, maintenance, and support";

15 (c) "The trustee may make distributions for health, education, maintenance, and
16 support";

17 (d) "The trustee shall make distributions for health, education, maintenance, and
18 support. The trustees may exclude any of the beneficiaries or may make
19 unequal distributions among them";

20 (e) "The trustee may make distributions for health, education, maintenance,
21 support, comfort, and general welfare.

22 Section 8. That § 55-1-42 be amended to read as follows:

23 55-1-42. The following provisions apply only to support interests:

24 (1) A beneficiary of a support interest has an enforceable right to a distribution pursuant

1 to a court's review. A trustee's distribution decision may be reviewed for
2 ~~reasonableness~~ unreasonableness, dishonesty, improper motivation, or failure to act.

3 This does not raise the beneficiary's interest to the level of a property interest;

4 (2) If the trust contains a spendthrift provision, notwithstanding the beneficiary's right
5 to force a distribution ~~from~~ of a support ~~trust~~ interest, no creditor may force a
6 distribution ~~from~~ of a support interest. No creditor may attach present or future
7 support distributions ~~from~~ of a support interest at the trust level.

8 With respect to a mandatory interest, if a trust contains a spendthrift provision,
9 notwithstanding the beneficiary's right to force a distribution of a mandatory interest, no creditor
10 may force a distribution of a mandatory interest. No creditor may attach present or future
11 mandatory distributions of a mandatory interest at the trust level.

12 Regardless of whether a beneficiary has any outstanding creditor, a trustee of a mandatory
13 or a support interest may directly pay any expense on behalf of such beneficiary. No trustee is
14 liable to any creditor for paying the expenses of a beneficiary who holds a mandatory or support
15 interest.

16 Section 9. That subdivision (2) of § 55-1B-1 be amended to read as follows:

17 (2) "Trust protector," any ~~disinterested third party~~ person whose appointment is provided
18 for in the instrument;

19 Section 10. That § 55-2-13 be amended to read as follows:

20 55-2-13. For purposes of this section, the term, qualified beneficiary, means a beneficiary
21 who, on the date the beneficiary's qualification is determined:

22 (1) Is a distributee or permissible distributee of trust income or principal;

23 (2) Would be a distributee or permissible distributee of trust income or principal if the
24 interests of the distributees terminated on that date; or

1 (3) Would be a distributee or permissible distributee of trust income or principal if the
2 trust terminated on that date.

3 Except as otherwise provided by the terms of the trust or otherwise directed by the settlor
4 at any time, within sixty days after the date the trustee of an irrevocable trust acquires
5 knowledge of the creation of an irrevocable trust, or upon the date the trustee acquires
6 knowledge that a formerly revocable trust has become irrevocable, whether by death of the
7 settlor or otherwise, the trustee shall notify the qualified beneficiaries of the trust's existence,
8 of the identity of the settlor or settlors, and of the right of the beneficiary to request a copy of
9 the trust instrument.

10 ~~A~~ Subject to the previous provision, a trustee of an irrevocable trust:

11 (1) Upon request of a qualified beneficiary, shall promptly furnish to the qualified
12 beneficiary a copy of the trust instrument;

13 (2) If notification of the trust has not been accomplished pursuant to this section within
14 sixty days after accepting a trusteeship, shall notify the qualified beneficiaries of the
15 acceptance and of the trustee's name, address, and telephone number;

16 (3) Shall promptly respond to a qualified beneficiary's request for information related to
17 the administration of the trust, unless the request is unreasonable under the
18 circumstances.

19 The provisions of this section are effective for trusts created after July 1, 2002.

20 Section 11. That subdivision (4) of § 55-2-15 be amended to read as follows:

21 (4) The exercise of such authority does not reduce any income interest of any income
22 beneficiary of ~~a~~ any of the following trusts:

23 (a) A trust for which a marital deduction has been taken for federal tax purposes
24 under I.R.C. § 2056 or § 2523 or for state tax purposes under any comparable

1 provision of applicable state law;

2 (b) A charitable remainder trust under I.R.C. § 664; or

3 (c) A grantor retained annuity trust under I.R.C. § 2702; and

4 Section 12. That chapter 55-4 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 If a co-trustee is unable to perform duties because of absence, illness, disqualification under
7 other law, or other incapacity, or fails to perform duties due to inaction or neglect, and action
8 is necessary or appropriate under the circumstances to achieve the purposes of the trust or to
9 avoid injury to the trust property, the remaining co-trustee or a majority of the remaining
10 co-trustees may act for the trust.

11 Section 13. That § 55-10A-1 be amended by adding thereto a NEW SUBDIVISION to read
12 as follows:

13 (11A) "Qualified minor's trust," a trust, including a trust created by a custodian, of which
14 a minor is the sole income beneficiary and that satisfies the requirements of Section
15 2503(c) of the Federal Internal Revenue Code of 1986 and the regulations
16 implementing that section;

17 Section 14. That § 55-10A-15 be amended to read as follows:

18 55-10A-15. A custodian, acting in a custodial capacity, has all the rights, powers, and
19 authority over custodial property that unmarried adult owners have over their own property, but
20 a custodian may exercise those rights, powers, and authority in that capacity only. This section
21 does not relieve a custodian from liability for breach of § 55-10A-14.

22 At any time, a custodian may transfer part or all of a custodial property to a qualified minor's
23 trust without a court order. Such transfer terminates the custodianship to the extent of the
24 transfer.

1 Section 15. That § 55-13A-602 be amended to read as follows:

2 55-13A-602. This chapter applies to every trust or will created after July 1, 2007, except as
3 otherwise expressly provided in the will or the terms of the trust or in this chapter. No trust or
4 decedent's estate based upon a will executed after July 1, 2007, may utilize the provisions of
5 chapter 55-13. Every trust existing on June 30, 2007, or any decedent's estate existing on June
6 30, 2007, and based upon a will executed prior to July 1, 2007, may elect to apply the provisions
7 of either chapter 55-13 or this chapter. ~~Such~~ The election shall ~~may~~ be made by the trustee or
8 personal representative ~~prior to the date of the first income distribution from such trust or estate~~
9 ~~following July 1, 2007. Such election shall be in writing and notice of such election shall be~~
10 ~~given in writing to~~ upon providing sixty days written notice of the election to the beneficiaries
11 of the trust or estate, as the case may be.

12 Any election made prior to July 1, 2008, is hereby ratified and remains in full force and
13 effect.

14 Section 16. That § 55-16-9 be amended to read as follows:

15 55-16-9. Notwithstanding any other provision of law, no action of any kind, including an
16 action to enforce a judgement entered by a court or other body having adjudicative authority,
17 may be brought at law or in equity for an attachment or other provisional remedy against
18 property that is the subject of a qualified disposition or for avoidance of a qualified disposition
19 unless ~~such action is brought pursuant to the provisions of Uniform Fraudulent Transfer Act of~~
20 ~~chapter 54-8A~~ the settlor's transfer of property was made with the intent to defraud that specific
21 creditor.

22 Section 17. That § 55-16-10 be amended to read as follows:

23 55-16-10. ~~A creditor's claim under § 55-16-9 is extinguished unless:~~

24 ~~(1) The creditor's claim arose before the qualified disposition was made, and the action~~

1 is brought within the limitations of Uniform Fraudulent Transfer Act of chapter 54-
2 8A in effect on the later of the date of the qualified disposition or August 1, 2000; or

3 ~~(2) Notwithstanding the provisions of Uniform Fraudulent Transfer Act of chapter 54-~~
4 ~~8A, the creditor's claim arose concurrent with or subsequent to the qualified~~
5 ~~disposition and the action is brought within four years after the qualified disposition~~
6 ~~is made~~ A cause of action or claim for relief with respect to a fraudulent transfer of
7 a settlor's assets under § 55-16-9 is extinguished unless the action under § 55-16-9
8 is brought by a creditor of the settlor who meets one of the following requirements:

9 (1) Is a creditor of the settlor before the settlor's assets are transferred to the trust, and the
10 action under § 55-16-9 is brought within the later of:

11 (a) Three years after the transfer is made; or

12 (b) One year after the transfer is or reasonably could have been discovered by the
13 creditor if the creditor:

14 (i) Can demonstrate that the creditor asserted a specific claim against the
15 settlor before the transfer; or

16 (ii) Files another action, other than an action under § 55-16-9, against the
17 settlor that asserts a claim based on an act or omission of the settlor that
18 occurred before the transfer, and the action described in this sub-
19 subsection is filed within three years after the transfer; or

20 (2) Becomes a creditor subsequent to the transfer into trust, and the action under § 55-
21 16-9 is brought within three years after the transfer is made.

22 In any action described in § 55-16-9, the burden to prove the matter by clear and convincing
23 evidence is upon the creditor.

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

831P0124

HOUSE AGRICULTURE AND NATURAL RESOURCES

ENGROSSED NO. **SB 111** - 2/14/2008

Introduced by: Senators Duenwald, Abdallah, Apa, Garnos, Hansen (Tom), Hauge, Lintz, Maher, McCracken, Napoli, Peterson (Jim), and Schmidt (Dennis) and Representatives Brunner, Cutler, DeVries, Gilson, Hackl, Jerke, Juhnke, Kirkeby, Koistinen, Lucas, Novstrup (David), Olson (Russell), Rausch, Steele, and Turbiville

1 FOR AN ACT ENTITLED, An Act to extend the prohibition of road hunting of big game to
2 include hunting using certain additional weapons.

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

4 Section 1. That § 41-9-1.2 be amended to read as follows:

5 41-9-1.2. No person may hunt big game on interstate highways or controlled access facilities
6 as defined in § 31-8-1 within this state.

7 No person may discharge a rifle firearm, muzzleloader, crossbow, or bow and arrow at a any
8 big game animal, except turkey to be taken with a shotgun using shot shells or with a bow and
9 arrow, from within the right-of-way of an improved public highway. However, any person who
10 possesses a disabled hunter permit issued by the department to shoot from a vehicle as provided
11 in § 41-8-37 may hunt on public rights-of-way adjoining publicly-owned hunting areas and on
12 rights-of-way adjoining private lands with the written permission of the owner or lessee.

13 Retrieval of lawfully taken big game is permitted on all public rights-of-way.



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

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

813P0606

HOUSE ENGROSSED NO. **SB 124** - 2/20/2008

Introduced by: Senators Albers, Hauge, and McCracken and Representatives Pitts, Kirkeby,
and Lucas

1 FOR AN ACT ENTITLED, An Act to revise certain provisions related to format standards for
2 real estate documents.

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

4 Section 1. That § 43-28-23 be amended to read as follows:

5 43-28-23. Any real estate document recorded with the register of deeds, except for plats,
6 shall:

7 (1) Consist of one or more individual sheets measuring no larger than 8.5 inches by 14
8 inches and no smaller than 8.5 inches by 11 inches. No sheet may be attached or
9 affixed to a page that covers up any information or printed material on the document.

10 Any continuous document or any document sheets that are stapled, glued, or bound
11 together are subject to the additional fee established pursuant to subdivision 7-9-
12 15(1);

13 (2) Be printed, typewritten, or computer generated in black ink and the print type of the
14 document may not be smaller than 10-point type. ~~However, the signature and date~~
15 ~~may be made on the document.~~ However, signatures and dates may be in black or



1 blue ink, and notarial acknowledgments may be completed in black or blue ink;

2 (3) Be on white paper of not less than twenty pound weight;

3 (4) Contain a blank space at the top measuring no less than three inches as measured
4 from the top of the first page. The right half shall be used by the register of deeds for
5 recording information and the left half shall be used by the document preparer as
6 required pursuant to § 7-9-1 and may include ~~a return designation and address~~ other
7 document information. All other margins shall be a minimum of one inch;

8 (5) Have a title prominently displayed at the top of the first page below the blank space
9 referred to in subdivision (4) of this section;

10 (6) Be sufficiently legible to reproduce a readable copy using the register of deed's
11 current method of reproduction; and

12 (7) Conform to the standards provided in this section or be subject to the increased fees
13 as provided in § 7-9-15.

14 However, the register of deeds may not charge an increased fee for any document that has
15 ~~a seal or stamp~~ any portion of a notary or corporate seal or stamp, a page number, an initial, or
16 a partial signature in a margin. Any affidavit of publication, corner record, survey, certified
17 court or governmental document, and UCC form recorded against real estate is exempt from the
18 provisions of this section. Any plat or survey and certified vital record attached to documents
19 is also exempt from the provisions of this section.

20 The provisions of this section do not apply to any real estate document prepared and
21 executed prior to July 1, 2002.