

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

418N0639

HOUSE JUDICIARY COMMITTEE ENGROSSED NO. **SB 202** - 02/23/2007

Introduced by: Senator Gray and Representative Lust

1 FOR AN ACT ENTITLED, An Act to increase the exemption from process of certain
2 retirement benefits.

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

4 Section 1. That § 43-45-16 be amended to read as follows:

5 43-45-16. Any person ~~shall have~~ has the right to select and designate a total of ~~two hundred~~
6 ~~fifty thousand~~ one million dollars and the income and distributions therefrom from the
7 employee's benefit plans as exempt from execution, attachment, garnishment, seizure, or taking
8 by any legal process. This exemption is subject to the right of the State of South Dakota and its
9 political subdivisions to collect any amounts owed to them. This section permits benefits under
10 such plan or arrangement to be payable to a spouse, former spouse, child, or other dependent
11 of a participant in such plan to the extent expressly provided for in a qualified domestic relations
12 order as defined in 29 U.S.C. § 1056(d) or in § 401(a)(13) of the Internal Revenue Code.

13 Section 2. That § 43-45-17 be amended to read as follows:

14 43-45-17. For the purposes of §§ 43-45-16 to 43-45-18, inclusive, the term, employee
15 benefit plan, means any plan or arrangement that is subject to the provisions of 29 U.S.C.



1 §§ 1001 through 1461, as amended, and in effect on January 1, ~~2000~~ 2007, or that is described
2 in § 401, 403(a), 403(b), 408, 408A, ~~or~~ 409, 414, 457, or 501(a) of the Internal Revenue Code,
3 as amended, and in effect as of January 1, ~~2000~~ 2007. The term, employee benefit plan, does not
4 include any employee benefit plan that is excluded from application pursuant to 29 U.S.C.
5 § 1003(b)(1), as amended, and in effect as of January 1, ~~2000~~ 2007.