AN ACT

ENTITLED, An Act to make form and style revisions to certain taxation and revenue statutes.

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

Section 1. That § 10-1-3 be amended to read as follows:

10-1-3. The secretary of revenue and regulation shall devote full time to the performance of the duties of the office and may hold no other office or position of profit. The secretary shall be paid a salary to be determined by law. The secretary shall make an annual report to the Governor in the manner provided by law for annual reports of state officers. Before entering upon the discharge of the duties of the office, the secretary shall take and subscribe the oath required by section 3 of article XXI of the Constitution and give bond to the state in the penal sum of five thousand dollars conditioned for the faithful performance of the duties of the office and for an accounting of all money and other property coming into the secretary's hands or under the secretary's control. The secretary shall file the bond with the secretary of state. The form of the bond shall be approved by the attorney general and the sufficiency of the bond by the Governor. The premium for the bond shall be paid by the state.

Section 2. That § 10-1-6 be amended to read as follows:

10-1-6. The secretary of revenue and regulation may establish divisions within the Department of Revenue and Regulation as necessary for the proper functioning of the department and shall prescribe, assign, and delegate the powers, duties, and functions of each division. The secretary may appoint one or more directors and deputy directors for each of the divisions to serve at the secretary's pleasure. The secretary may employ such clerical and other employees and assistants as the secretary deems necessary for the proper transaction of the business of the department and its divisions, and the secretary may fix their salaries, except as otherwise provided by law.

Section 3. That § 10-1-7 be amended to read as follows:

10-1-7. Directors of the respective divisions shall be appointed by the secretary of the Department of Revenue and Regulation and serve at the pleasure of the secretary. The directors shall devote their full time to their duties and may hold no other office or position of profit. Before entering upon the duties of their office, the directors and deputies shall take and subscribe the oath required by S.D. Const., Art. XXI, § 3 and give bond to the state in like manner and form as the secretary, and file the bond in the Office of the Secretary of State. The form of the bond shall be approved by the attorney general and the sufficiency of the bond by the Governor. The premium for the bond shall be paid by the state.

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

10-1-10. The attorney general shall, if requested, give the Department of Revenue and Regulation such counsel and advice as the department may from time to time require. The attorney general shall institute and prosecute, if requested by the secretary of revenue and regulation, any suit that the secretary deems expedient and proper to institute. The attorney general shall render to the secretary such counsel, advice, and opinions, in writing if requested, as are necessary to carry out the provisions of this chapter or any law of this state.

Section 5. That § 10-1-12 be amended to read as follows:

10-1-12. The state's attorney of any county in which suit is instituted or prosecuted shall aid in the prosecution of the suit to a final issue upon the request of the secretary of revenue and regulation or the attorney general.

Section 6. That § 10-1-18 be amended to read as follows:

10-1-18. The secretary of revenue and regulation shall investigate the work of all directors of equalization and all taxing officers in the assessment, equalization, and taxation of all property subject to taxation. The secretary may visit any county in the state for such purposes.

Section 7. That § 10-1-21 be amended to read as follows:

10-1-21. The secretary of revenue and regulation may order the reassessment of real property of any class in any assessment district if, in the judgment of the secretary, such reassessment is advisable or necessary in order to ensure that all classes of property in the assessment district are assessed in compliance with law. For that purpose, the secretary may require the director of equalization making the assessment to make the reassessment.

Section 8. That § 10-1-22 be amended to read as follows:

10-1-22. In making any reassessment pursuant to § 10-1-21, the director of equalization shall examine and reassess the property and shall duplicate the lists of such reassessments in such forms as the secretary of revenue and regulation prescribes. The director of equalization shall file both copies of the list with the secretary within the time designated by the secretary.

Section 9. That § 10-1-23 be amended to read as follows:

10-1-23. Upon the filing of reassessment lists pursuant to § 10-1-22, the secretary of revenue and regulation shall examine, equalize, and correct the reassessment so as to conform substantially with the assessment of like property throughout the state. The secretary shall transmit to the county auditor of the county in which the reassessment was made one corrected and equalized copy of the reassessment. The reassessment list for all purposes supersedes the original assessment for the year upon the property. Upon receipt of the reassessment list, the county auditor shall extend and levy the taxes on the reassessed property for the year according to the reassessment, in the same manner as though the list were the original list of the property. However, nothing in the reassessment proceedings prevents any person feeling aggrieved by the reassessment proceedings from appealing to the secretary of revenue and regulation.

Section 10. That § 10-1-24 be amended to read as follows:

10-1-24. The secretary of revenue and regulation shall require county auditors to place upon the assessment rolls property that is discovered to have for any reason, in whole or in part, escaped

assessment and taxation in the current or previous years.

Section 11. That § 10-1-25 be amended to read as follows:

10-1-25. The secretary of revenue and regulation shall examine all cases in which evasions or violations of the laws of this state relating to the assessment and taxation of property are complained of or discovered. The secretary shall examine all cases in which property subject to taxation has not been assessed or has been fraudulently or for any reason improperly or unequally assessed or in which the laws in any manner have been evaded or violated. The secretary shall institute proceedings to remedy improper or negligent administration of the laws relating to the taxing of property in the state.

Section 12. That § 10-1-26 be amended to read as follows:

10-1-26. The secretary of revenue and regulation may summon witnesses to appear and give testimony and to produce records, books, papers, and documents relating to any matter on which the secretary has authority to investigate or determine.

Section 13. That § 10-1-27 be amended to read as follows:

10-1-27. The secretary of revenue and regulation shall cause the deposition of witnesses residing within or without the state or absent from the state to be taken upon notice to the interested person, if any, in like manner that depositions of witnesses are taken in civil actions pending in the circuit court, in any matter on which the secretary has authority to investigate or determine.

Section 14. That § 10-1-28 be amended to read as follows:

10-1-28. The secretary of revenue and regulation, in any matter under investigation or consideration, may administer oaths to witnesses. If any witness fails to obey any summons to appear before the secretary, refuses to testify or answer any question, or fails to produce records, books, papers, or documents if required so to do, such failure or refusal shall be reported to the attorney general who shall institute proceedings in the proper circuit court to compel obedience to any

summons or order of the secretary. Officers who serve summonses or subpoenas and witnesses attending shall receive like compensation as officers and witnesses in the circuit court. Such compensation shall be paid by the county for whose benefit the investigation is made, upon certificate of the secretary of revenue and regulation.

Any person who testifies falsely in any matter under consideration by the secretary of revenue and regulation in an investigation as provided in this section is guilty of perjury.

Section 15. That § 10-1-31 be amended to read as follows:

10-1-31. The secretary of revenue and regulation shall direct any proceedings, actions, and prosecutions to be instituted to enforce the laws relating to penalties, liabilities, and punishment of public officers and officers and agents of corporations for failure or neglect to comply with the provisions of the laws of this state governing the assessment and taxation of property. The secretary shall cause complaints to be made to the proper authority against directors of equalization, members of boards of review, members of boards of equalization, or other assessing and taxing officers for their removal from office for official misconduct or neglect of duty.

Section 16. That § 10-1-32 be amended to read as follows:

10-1-32. The secretary of revenue and regulation shall require state's attorneys to assist in the commencement and prosecution of actions or proceedings for penalties, forfeitures, removals, or other punishment for violation of the laws of this state with respect to the assessment and taxation of property in their respective counties.

Section 17. That § 10-1-33 be amended to read as follows:

10-1-33. The secretary of revenue and regulation shall require individuals, partnerships, companies, associations, and corporations to furnish information concerning their capital, bonded and other debts, current assets and liabilities, value of property, earnings, operating and other expenses, taxes, and all other facts that may assist the secretary in ascertaining the value and the

relative tax burden borne by all kinds of property in the state.

Section 18. That § 10-1-34 be amended to read as follows:

10-1-34. The Department of Revenue and Regulation shall ascertain, compile, record, and report statistics relative to the natural resources of the state, including school and public lands and waters, for the purpose of promoting the conservation, use, and operation of such resources and to facilitate the collection for state revenue purposes of any royalties derived from such resources as provided for by law.

Section 19. That § 10-1-36 be amended to read as follows:

10-1-36. The secretary of revenue and regulation shall transmit to the Governor and to each member elected to the Legislature, thirty days before the meeting of the Legislature, the report of the secretary, showing all taxable property in the state and the value of the property in tabulated form. The report shall include other information as may be advisable and recommendations for improvement in the system of taxation in the state, together with measures proposed by the secretary for consideration by the Legislature.

Section 20. That § 10-1-37 be amended to read as follows:

10-1-37. The secretary of revenue and regulation shall consult and confer with the Governor upon the subject of taxation, the administration of the laws in relation to taxation, and the progress of the work of the secretary. The secretary shall furnish the Governor such reports, assistance, and information as the Governor may require.

Section 21. That § 10-1-38 be amended to read as follows:

10-1-38. The secretary of revenue and regulation shall formulate and recommend legislation to prevent evasions of assessment and taxing laws and to secure just taxation and improvement in the system of taxation in this state.

Section 22. That § 10-1-39 be amended to read as follows:

10-1-39. The Department of Revenue and Regulation shall devise and report in favor of legislation that is necessary and expedient for the levying and collection for state purposes of license fees, franchise or charter fees, stamp taxes, royalties, privileges and business taxes, and other revenues derived from the regulation of state affairs and the exercise of the police powers of the state.

Section 23. That § 10-1-40 be amended to read as follows:

10-1-40. The secretary of revenue and regulation shall construe the tax laws of the state if requested by any officer acting under such laws; shall ensure that all taxes due the state, counties, municipalities, and other local subdivisions are collected; and shall perform such other duties and exercise such other powers as are provided by law.

Section 24. That § 10-3-3 be amended to read as follows:

10-3-3. The county director of equalization shall be appointed by the board of county commissioners at either a special or regular meeting of the commissioners. If a single municipality contains fifty percent or more of the population of a county, the mayor of the municipality and the board of county commissioners shall make the appointment, and the mayor is entitled to sit and vote with the board.

Section 25. That § 10-3-4 be amended to read as follows:

10-3-4. The director of equalization, before entering upon the duties of the office, shall file with the county auditor the oath of office and a bond, in the manner and form prescribed by § 10-3-12.

Section 26. That § 10-3-7 be amended to read as follows:

10-3-7. The county director of equalization shall receive necessary traveling expenses as fixed for county officials by § 7-7-24. The director shall receive necessary traveling expenses as provided by § 7-7-24 if attending meetings called by the secretary of revenue and regulation.

Section 27. That § 10-3-12 be amended to read as follows:

10-3-12. The county director of equalization and each of the director's deputies shall, within ten days of appointment, file with the county auditor the oath of office and a bond, payable to the county, with one or more sufficient sureties, in a penal sum fixed by the board of county commissioners, to be approved by the board of county commissioners, and conditioned that the director or deputy will diligently, faithfully, and impartially perform the duties of the office. The director and each deputy shall take and subscribe on such bond the following oath:

State of South Dakota,

County of _____, ss.

I, _____, do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of South Dakota, that I will faithfully, impartially, and honestly discharge the duties of my office as (director of equalization)(assessor)(deputy), particularly that I will assess all property assessed by me at its true cash value according to my best knowledge and judgment, so help me God.

_____

Subscribed and sworn to before me this _____ day of _____, 20_____.

_____

If any person so appointed fails to give the bond, or fails to take the required oath within the time prescribed, such failure constitutes a refusal to serve.

Section 28. That § 10-3-19 be amended to read as follows:

10-3-19. The director of equalization may require the person to fill out and submit the statement required for the agricultural census as provided in chapter 38-5.

Section 29. That § 10-3-20 be amended to read as follows:

10-3-20. The director of equalization may require any person found within the director's county to make and subscribe an affidavit, giving the person's name and place of residence and post office

address.

Section 30. That § 10-3-21 be amended to read as follows:

10-3-21. If the affidavit provided for in § 10-3-20 shows the residence of the person making the affidavit to be in any county other than that in which the affidavit is made, the director of equalization shall, in the respective case, file the affidavit in the director's office and transmit a copy of the affidavit, certified by the director, to the director of the county in which the residence or property is shown in the affidavit to be located. Any expense in connection with the requirements of this section shall be paid by the county at the rates as provided in circuit court actions.

Section 31. That § 10-3-22 be amended to read as follows:

10-3-22. The director of equalization may subpoena and examine any person in relation to any statement furnished to the director that discloses property that is assessable in the county of the taxpayer. The director may exercise this power in any county where the person whom the director desires to examine may be found. However, the director may not require such persons to appear before the director in any other county than that in which the subpoena is served.

Section 32. That § 10-3-23 be amended to read as follows:

10-3-23. The director of equalization may enter upon and inspect all property for the purpose of determining the value of the property or to discover and list property that has been omitted from the assessment rolls. Each year, the director shall list the taxpayers whose property has been inspected as provided in this section and shall file the list with the county auditor.

Section 33. That § 10-3-24 be amended to read as follows:

10-3-24. The director of equalization shall add all omitted property to the assessment rolls at any time up to their delivery to the county auditor as required in § 10-3-36. The director shall give notice as prescribed by §§ 10-11-3 and 10-11-6 to the taxpayer that such property is to be added to the assessment rolls.

Section 34. That § 10-3-25 be amended to read as follows:

10-3-25. The director of equalization shall assess property in the name of an absent owner if the name is known to the director. If the name is unknown to the director, the director shall add the property to unknown owners.

Section 35. That § 10-3-26 be amended to read as follows:

10-3-26. The director of equalization shall make an estimate of the value of property, if the owner or claimant of the property is absent or unknown and the property is not listed by another person.

Section 36. That § 10-3-27 be amended to read as follows:

10-3-27. The director of equalization shall make an estimate of the value of property if any person, after demand by the director, neglects or refuses to give under oath the statement required by § 10-6-8 or to comply with the other requirements of this chapter or chapter 10-6. The director shall note the neglect or refusal on the assessment book opposite the name of any such person.

Section 37. That § 10-3-29 be amended to read as follows:

10-3-29. The director of equalization shall prepare a large scale topographical land map of the county showing the location of all railroads, highways, roads, bridges, rivers, lakes, swamp areas, wooded tracts, stony ridges, and other features that might affect the value of the land and appropriate symbols to indicate the best, the fair, and the poor land of the county. The director shall prepare and keep available in the director's office tables showing the classification of cultivated, meadow, pasture, cut-over timber, and wastelands of each congressional and organized township, for use in connection with the map. The director shall keep the map and tables available in the office for the director's use and for the guidance of local and county boards of equalization.

Section 38. That § 10-3-30 be amended to read as follows:

10-3-30. The director of equalization shall prepare and keep available in the director's office a

land valuation map of the county. The map shall include the bordering tier of townships of each county adjoining and shall show the true and full value per acre, both with and without improvements, of all lands that lie outside the corporate limits of municipalities. The map shall show the average assessed valuation per acre of real property by taxing districts, excluding the valuation of structures on the real property, and excluding real property located within the corporate limits of municipalities.

Section 39. That § 10-3-31 be amended to read as follows:

10-3-31. The director of equalization shall regularly examine all conveyances of real estate in the county as filed with the register of deeds and keep a record by description of the considerations shown on the conveyances. However, the director of equalization may destroy any record that is declared by the records destruction board, acting pursuant to § 1-27-19, to have no further administrative, legal, fiscal, research, or historical value.

Section 40. That § 10-3-32 be amended to read as follows:

10-3-32. Upon receipt from the register of deeds of the certified list of transfers of real estate, the county director of equalization shall check the assessment rolls of real estate for that year and shall revise the assessment rolls so that the real estate is assessed to the true owner as shown by the list of transfers.

Section 41. That § 10-3-33 be amended to read as follows:

10-3-33. The director of equalization shall assist the boards of county commissioners and county boards of equalization to enable them to perform their duties, and shall furnish such boards with all necessary charts, tables, comparisons, and data that they may require.

Section 42. That § 10-3-34 be amended to read as follows:

10-3-34. The director of equalization shall investigate applications for reductions of value and abatements and settlements of taxes, examine the real property involved, and submit reports and

recommendations with respect to the application, if requested by either the board of county commissioners or the secretary of revenue and regulation.

Section 43. That § 10-3-37 be amended to read as follows:

10-3-37. The director of equalization shall exercise all the duties and powers formerly imposed on municipal and township assessors not inconsistent with the provisions of this chapter.

Section 44. That § 10-3-39 be amended to read as follows:

10-3-39. The director of equalization is liable on the director's official bond for all taxes on property within the county that, through the director's willful failure or willful neglect, is unassessed. Any deputy of the director of equalization is liable on the deputy's official bond for all taxes on property within the county that, through the deputy's willful failure or willful neglect, is unassessed.

Section 45. That § 10-24-1 be amended to read as follows:

10-24-1. Any person may redeem real property sold for taxes at any time before issue of a tax deed for the property, by paying the treasurer, for the use of the purchaser or the purchaser's heirs or assigns, the sum mentioned in the certificate, and interest on the sum at the rate at which the real property was sold from the date of purchase, together with all other taxes subsequently paid, whether for any year or years previous or subsequent to the sale, and interest on the taxes at the same rate from the date of the payment. The treasurer shall enter a memorandum of the redemption in the list of sales and give a receipt for the redemption to the person redeeming the property. The treasurer shall file a duplicate of the receipt with the county auditor as in other cases. The treasurer shall hold the money subject to the order of the purchaser, the purchaser's agent, or the purchaser's attorney.

Section 46. That § 10-24-2 be amended to read as follows:

10-24-2. If the person who desires to redeem does not demand a receipt or certificate of redemption from the treasurer, the return of the certificate of purchase for cancellation operates as a release of all claims to the tract or lot described in the certificate, under or by virtue of the

purchase, and under and by virtue of the payment of any taxes subsequently paid in accordance with the provisions of law as to subsequent payment of taxes. The county treasurer, upon receiving the certificate of purchase, shall mark on the tax sale record opposite the description of the property for which the certificate of purchase has been issued, and opposite the record showing all payments of subsequent taxes, "sale canceled by return of certificate."

Section 47. That § 10-24-3 be amended to read as follows:

10-24-3. Any mentally ill or developmentally disabled person may redeem any real property belonging to the person and sold for taxes, within one year after the expiration of the person's disability. Any minor may redeem any real property belonging to the minor and sold for taxes, within one year after the minor reaches the age of eighteen. Nothing in this section prevents partition proceedings according to law as to such real estate, by the tax deed holder or the holder's successor as to any real estate in which any such minor or any such person under disability may have any interest.

Section 48. That § 10-24-4 be amended to read as follows:

10-24-4. No fee may be charged for any service provided for in §§ 10-24-1 to 10-24-3, inclusive.

Section 49. That § 10-24-7 be amended to read as follows:

10-24-7. Nothing contained in §§ 10-24-5 or 10-24-6 prevents the county from requiring payment of any tax that the county requires from any owner or other person interested in the property, if the owner or interested person is seeking to redeem or pay a subsequent tax.

Section 50. That § 10-24-8 be amended to read as follows:

10-24-8. Nothing contained in §§ 10-24-5 or 10-24-6 grants any disinterested person redeeming or paying taxes any lien upon the property or claim against owners or lien claimants, except such as the disinterested person may have by contract with them or by law.

Section 51. That § 10-24-9 be amended to read as follows:

10-24-9. Any person claiming a part of or an undivided interest in any real property sold for taxes, if the part or undivided interest was acquired before the tax sale from which redemption is sought, may redeem the part or undivided interest at any time before a tax deed has been issued on the property by paying the just proportion of the total amount required for redemption. The just proportion is the proportion that the then existing value of the part or interest for which redemption is sought bears to the then existing value of the whole, as computed by the county treasurer at the time. If the tax sale certificate is held by a person other than the county, the redemption is not complete until the certificate holder accepts the portion so determined by the county treasurer or until the matter is decided as provided in §§ 10-24-12 to 10-24-15, inclusive.

Section 52. That § 10-24-10 be amended to read as follows:

10-24-10. In all such cases, the treasurer shall endorse the following upon the redemption certificate or tax receipt issued to the redemptioner, upon the tax list opposite the real estate description involved, and upon the notice sent to the certificate holder:

(1) The amount of the total value as determined by the treasurer;

(2) The amount of the value of the part or interest sought to be redeemed; and

(3) The amount paid as tender for the partial redemption by the proposed redemptioner.

Section 53. That § 10-24-11 be amended to read as follows:

10-24-11. Such tender may not be withdrawn by the proposed redemptioner but shall be held by the treasurer subject to acceptance by the certificate holder, or final determination as provided in §§ 10-24-12 to 10-24-15, inclusive, and then disposed of according to the acceptance of the certificate holder or decision on appeal, and paid over to the certificate holder or returned to the proposed redemptioner, according to the acceptance or decision.

Section 54. That § 10-24-12 be amended to read as follows:

10-24-12. Notice of the proposed partial redemption shall be immediately served upon the

certificate holder by personal service or by registered or certified mail. The proposed partial redemption is final within ten days after receipt of the notice by the certificate holder or the certificate holder's agent or attorney, unless within such time the certificate holder or the certificate holder's agent or attorney appeals to the board of county commissioners of the county from the determination of the treasurer.

Section 55. That § 10-24-13 be amended to read as follows:

10-24-13. The certificate holder may accept the amount so paid at any time before its return to the prospective redemptioner, regardless of the pendency of appeal proceedings or decision on the proceedings.

Section 56. That § 10-24-14 be amended to read as follows:

10-24-14. The appeal referred to in § 10-24-12 may be taken by any informal notification filed with or mailed to the treasurer stating that the certificate holder rejects the amount paid or determined for the proposed partial redemption. If no such appeal is taken, the redemption is final and the part or interest is released from the effect of the tax sale certificate and taxes paid as subsequent to the redemption. If the appeal is taken, the county commissioners shall be notified by the county treasurer and shall decide the matter at their next regular or special meeting after the notice. The commissioners shall note the decision in the minutes.

Section 57. That § 10-24-16 be amended to read as follows:

10-24-16. Any person having a lien upon any property sold or about to be sold for taxes or on which the taxes are delinquent and unpaid may redeem from the tax sale if the property is still subject to redemption or may pay such taxes, interest, penalty, and costs as are delinquent. The receipt of the county treasurer or the certificate of redemption constitutes an increase of the amount of the lien held by the party paying the taxes or making the redemption. The amount paid and the interest on the amount at the rate specified in the lien instrument, or if none is specified then at the

rate that such taxes would bear according to law, shall be collected with, as a part of, and in the same manner as the amount secured by the original lien.

Section 58. That § 10-25-1 be amended to read as follows:

10-25-1. In the case of any real property sold for taxes and not yet redeemed, the owner or holder of the tax certificate may conduct, or cause to be conducted, proceedings to procure a tax deed on the real property, as provided by §§ 10-25-2 to 10-25-12, inclusive. The proceedings shall be initiated no sooner than three years from the date of the tax sale in the case of real property located within the limits of any municipality, or no sooner than four years from the date of the tax sale in the case of real property located outside the limits of any municipality, or at any time thereafter within six years from the date of the tax sale subject to the provisions of §§ 10-25-16 to 10-25-19, inclusive. The time period applies equally to the county or any other purchaser of the tax certificate. Any assignee of a tax certificate shall take the certificate subject to the time period of the first owner of the tax certificate.

Section 59. That § 10-25-2 be amended to read as follows:

10-25-2. A notice of intention to take tax deed shall be signed by the lawful holder of the tax sale certificate, or the holder's agent or attorney, stating the date of sale, the description of the property sold, the name of the purchaser, and the name of the assignee, if any. The notice shall also state that the right of redemption will expire and a deed for the real property will be made upon the expiration of sixty days from the completed service, unless the property is redeemed as permitted by law. If two or more certificates covering different descriptions of property are held by the same person, either by purchase or assignment or both, the descriptions may all be included in one notice if the notice includes the information required in this section for each such description.

Section 60. That § 10-25-4 be amended to read as follows:

10-25-4. If the real property is situated within a municipal corporation, notice also shall be served

upon the following:

(1) The holder of any special assessment certificate that is a lien upon the real estate;

(2) The holder of any tax certificate issued upon sale for any special assessment;

(3) If bonds have been issued in lieu of assessment certificates, upon the holder of the bond last maturing; and

(4) The city auditor or town clerk of the municipal corporation.

The service provided for in this section may be made only upon those persons described in this section whose names and post-office addresses are known to the holder of the tax certificates or can be obtained from the treasurer of the municipal corporation or the county treasurer, as provided for in § 10-25-7.

Section 61. That § 10-25-6 be amended to read as follows:

10-25-6. If any of the persons on whom notice is required to be served by §§ 10-25-3 and 10-25-4 is deceased, the notice shall be served on the person's personal representative, foreign or resident, or upon the resident agent of a foreign personal representative, if any are known to the certificate holder. If no such persons are known, the notice shall be served upon any known heirs, devisees, and legatees of the decedent, in the same manner as if they were owners of record. For any unknown heirs, devisees, and legatees of the decedent, notice shall be served by including in and publishing the notice, the same as required for nonresidents, designating such unknown persons as "the unknown personal representatives, heirs, devisees, legatees of _____, deceased," naming the decedent. For unknown persons, no mailing is required. The fact of whether the decedent, the decedent's personal representative or resident agent, or any heirs, devisees, and legatees are known or unknown shall be sufficiently established for tax-deed proceedings by the affidavit of the certificate holder or the certificate holder's agent or attorney conducting the proceedings.

Section 62. That § 10-25-7 be amended to read as follows:

10-25-7. The notice to the holder of any special assessment certificate, or bond issued in lieu of a special assessment certificate, shall be directed to the certificate holder or bondholder at the address that appears for the certificate holder or bond holder in connection with the record of the certificate or bond in the office of the treasurer of the municipal corporation. The notice shall be sent by registered or certified mail with all proper postage prepaid. A like notice, by registered or certified mail, shall be given to the holder of any tax certificate issued upon a sale for any special assessment, by mailing to the tax certificate holder's address as the address appears in the office of the county treasurer. Such service is not required for any certificate holder or bondholder whose name and address do not appear in the record and for whom an affidavit or certificate is made by the treasurer stating that the person's name or address is not known to the treasurer, accompanied by an affidavit of the holder of the tax certificate that the holder does not know the name and address of the person.

Section 63. That § 10-25-8 be amended to read as follows:

10-25-8. The service of the notice is complete when an affidavit of the service of the notice and of the particular mode of the notice, duly signed and verified by the person or officer making the service, has been filed with the treasurer authorized to execute the tax deed. The record or affidavit is presumptive evidence of the completed service of the notice. The right of redemption from the sale does not expire until sixty days after the filing of affidavit of completed service of the notice.

Section 64. That § 10-25-10 be amended to read as follows:

10-25-10. The person demanding the tax deed shall purchase the assignment of all prior tax certificates held by the county on the real property before the county treasurer may issue the tax deed.

Section 65. That § 10-25-11 be amended to read as follows:

10-25-11. Immediately after the expiration of sixty days from the date of the filing of affidavit of completed service of the notice provided in § 10-25-8, the treasurer shall make out a deed for each lot or parcel of real property sold and remaining unredeemed. The deed shall be signed by the county

treasurer and attested by the county auditor, under seal, and shall be delivered to the purchaser or the purchaser's assignee upon the return of the certificate of tax sale. The treasurer shall receive one dollar for each deed made by the treasurer on such sales, but any number of parcels of real property bought by one person may be included in one deed, as the holder may desire.

Section 66. That § 10-25-12 be amended to read as follows:

10-25-12. Any deed issued pursuant to chapter 10-26 vests in the grantee an absolute estate in fee simple in the real property. However, the real property is subject to any claim that the state may have in the real property for taxes, liens, or encumbrances. The real property is also subject to any lien for past-due installments of special assessments for the financing of municipal improvements levied pursuant to chapter 9-43, including principal and interest on the installments except as provided by § 9-43-60. The holder of the deed or the holder's successor in interest is entitled to immediate exclusive possession of the real estate described in the deed regardless of rights of any person to redeem or question the same thereafter.

Section 67. That § 10-25-16 be amended to read as follows:

10-25-16. If proceedings to procure a tax deed are not commenced within six years after the date of the tax sale certificate on which the proceedings are based, the tax sale certificate, the lien for taxes, the lien of any taxes paid by the holder of the tax sale certificate as subsequent taxes, and all rights thereunder cease and are forever barred. The county treasurer shall cancel the certificate on the treasurer's record and shall note on the sale records and the tax books of the treasurer's office that the tax sale certificate and the lien of subsequent tax receipts held by the owner of the tax sale certificate are barred and of no validity.

Section 68. That § 10-25-17 be amended to read as follows:

10-25-17. The provisions of § 10-25-16 do not apply to tax sale certificates that are held by the county. If any such certificate is assigned by the county, and if the certificate is dated more than four

years preceding the date of its assignment, the purchaser of the certificate has one year from the date of its assignment within which to commence proceedings to procure a tax deed.

Section 69. That § 10-25-18 be amended to read as follows:

10-25-18. The commencement of proceedings to procure a tax deed within the periods limited in §§ 10-25-16 and 10-25-17 does not extend the lien of the holder of the tax sale certificates more than six months beyond the expiration of the periods of limitations. If any such proceedings, commenced within the time limited by §§ 10-25-16 and 10-25-17, are not completed, and the right of the party instituting the proceedings to receive a tax deed under the provisions of §§ 10-25-1 to 10-25-12, inclusive, is not fully completed and established, within six months after the expiration of six years from the date of the tax sale certificate upon which the proceedings are based; allowing, however, to purchasers of tax sale certificates assigned by the county the additional period of one year from the date of the assignment within which to commence such proceedings and six months after the expiration of the period of one year within which to complete the proceedings; then all rights under the proceedings cease and are forever barred and the county treasurer shall cancel the tax sale certificate in the manner provided in § 10-25-16. Thereupon, the lien of the holder of the tax sale certificate is extinguished and all further proceedings on the tax sale certificate are barred.

Section 70. That § 10-25-19 be amended to read as follows:

10-25-19. Commencement of proceedings as provided for in §§ 10-25-16 to 10-25-18, inclusive, means any act done or record made by or for the certificate holder indicating that proceedings have been commenced. Completion of proceedings as used in §§ 10-25-16 to 10-25-18, inclusive, means the completed service and filing of proof of service in the office of the county treasurer so as to start running the sixty days allowed for redemption.

Section 71. That § 10-25-20 be amended to read as follows:

10-25-20. If any real property has been bid in by the county treasurer in the name of the county

at tax sale and has not been redeemed from the sale or the county has not assigned the certificate of purchase, and if sufficient time has elapsed since the tax sale that a tax deed may properly issue, if the county treasurer fails, refuses, or neglects to take proceedings for the issuance of a tax deed to the county, the county treasurer shall, upon written application of the county commissioners, or the governing body of any municipal corporation, school district, or township within the county that would be beneficiaries of the tax for which the property was sold, immediately give notice of intention to take tax deed as required by law. Upon such notice being given, if there is no redemption within the time allowed by law, the county treasurer shall issue a tax deed for the real property to the county as provided by law. If the county treasurer fails, refuses, or neglects to comply with the provisions of this section, the county treasurer's duty to comply may be enforced by writ of mandamus.

Section 72. That § 10-25-21 be amended to read as follows:

10-25-21. If any real property has been bid in by the county treasurer in the name of the county, at tax sale, and has not been redeemed from the sale, or the county has not assigned the certificate of sale, and sufficient time has elapsed since the sale that a tax deed may properly issue, the board of county commissioners may, in lieu of taking tax deed, procure from any person, firm, or corporation having any interest in the real property, real or apparent, a transfer by deed of the interest. However, the consideration for the transfer may not exceed the sum of fifteen dollars exclusive of taxes in connection with any one piece or parcel of land.

Section 73. That § 10-25-22 be amended to read as follows:

10-25-22. If title to real property has been acquired by the county under the provisions of § 10-25-21, the board of county commissioners may compromise, abate, or fully cancel any taxes previously extended against the property.

Section 74. That § 10-25-24 be amended to read as follows:

10-25-24. Any county that has acquired or may acquire title to any land by tax deed may commence an action in the county to quiet the title to the land. In any such action, several tracts of land, contiguous or noncontiguous, may be included in one complaint and all persons claiming any title to, interest in, or lien upon any of the lands may be joined as defendants. Upon request of the board of county commissioners of the county, the state's attorney shall promptly commence and prosecute to final judgment any such action.

Section 75. That § 10-25-25 be amended to read as follows:

10-25-25. The procedure in such action shall be as provided in chapter 21-41, except that the provisions of chapter 21-41 requiring the plaintiff to execute an indemnity bond, before entry of judgment, to the defendants who are served by publication are not applicable to the county.

Section 76. That § 10-25-26 be amended to read as follows:

10-25-26. The board of county commissioners may procure from any person, firm, or corporation having any interest in such land, real or apparent, a transfer, assignment, or satisfaction of the interest for the purpose of removing any cloud from the title of the land. The authority granted in this section may be exercised either in lieu of an action to quiet title or in connection with such an action. However, the consideration for the transfer, assignment, or satisfaction may not exceed twenty-five dollars in connection with any one piece or parcel of land, the title to which is sought to be quieted or cloud to the title removed. The board of county commissioners may negotiate with any person having any interest, real or apparent, in any such real estate, for such transfers, assignments, or satisfactions and may pay for the transfers, assignments, or satisfactions within the limitations provided in this section.

Section 77. That § 10-25-39 be amended to read as follows:

10-25-39. The proceeds of the sale, after deducting the expenses incurred by the county in the proceedings to take tax deed and in the sale proceedings, shall be placed to the credit pro rata of the

various funds and taxing districts that are the beneficiaries of the tax for the year for which the property was sold at tax sale. However, the county treasurer may distribute the proceeds received from the sale of any real property under the provisions of this section by prorating the proceeds on the basis of the levy for any one year for which the taxes are included in the proceeds of the sale, taking the year that represents the more equitable basis for the distribution.

Section 78. That § 10-25-42 be amended to read as follows:

10-25-42. Nothing contained in § 10-25-41 limits the discretion of the county commissioners to fix any higher price for such reconveyance or to annex to the reconveyance any such conditions or qualifications as the county commissioners may decide.

Section 79. That § 10-25-43 be amended to read as follows:

10-25-43. Reconveyance pursuant to § 10-25-41 may be authorized only by resolution of the county commissioners duly published in their minutes, and the reconveyance may be made only after the time for appealing from the resolution has expired. The reconveyance shall be made by quitclaim deed substantially in the form provided by chapter 43-25 and may be made only upon payment in cash of the price fixed by the resolution of the county commissioners. The quitclaim deed shall be executed by the treasurer and attested by the auditor under seal. The quitclaim deed has the effect only of releasing the title and claim that the county and the taxing districts represented by the county have under the tax deed and any of the taxes that are paid as a part of the price fixed by the county commissioners.

Section 80. That § 10-26-1 be amended to read as follows:

10-26-1. The treasurer of each county within this state may make a list of all taxes upon all real property in the county that appear from the tax records to be delinquent for a period of at least six years and that have not been satisfied by payment, or redemption, or sale of real estate, against which such taxes are assessed, to actual purchasers. The list shall include all such taxes upon any real estate

that may at any tax sale have been bid in for the county, except real estate upon which the county holds school loans, and shall include all tax judgments against lands that have not been sold or bid off for the payment of the judgment. If a tax judgment stands against any such real estate, unsatisfied, the taxes and interest shall be computed as if the judgment had not been taken, and a sale of the real estate under the provisions of this chapter satisfies the judgment. The list shall contain a description of each piece or parcel of land and each lot, block, and addition, upon which taxes have not been paid as specified in this section. Opposite each description the name of the owner to whom the taxes are assessed, if known, shall be specified. If the name of the owner is unknown, a statement to that effect shall be provided. The year for which the taxes are delinquent shall be shown giving the year and the amount of tax for each year including the penalty and interest for each year and the total aggregate amount of all taxes delinquent and the penalty and interest. The year given is deemed inclusive.

Section 81. That § 10-26-2 be amended to read as follows:

10-26-2. The treasurer shall attach to the list an affidavit to the effect that the list is a correct list and that the taxes as shown on the list are due, unpaid, and delinquent according to the records of the treasurer's office. The treasurer shall, on or before September tenth in the year in which the treasurer prepares the list, also file the list in the office of the county treasurer and county auditor of the treasurer's county.

Section 82. That § 10-26-4 be amended to read as follows:

10-26-4. On or before October tenth in the year in which the list of unpaid taxes is prepared by the treasurer and after the filing of the list as required by this chapter, the county treasurer shall give notice that tax deed will issue on the lands described in the delinquent tax list by serving notice to take tax deed by county on the recorded owner of the property. Notice shall be served either in person or by registered or certified mail sent to the recorded owner's last known address and posting

a copy of the list at the place designated by the county commissioners under the provisions of § 17-3-1 in the county in which the lands are situated. A notice in substantially the following form shall be attached to the list:

"NOTICE TO TAKE TAX DEED BY COUNTY

"NOTICE IS HEREBY GIVEN to all persons, firms, or corporations, who have, or claim any estate, right, title, or interest on, or claim to, or lien upon, any of the several pieces or parcels or lots of lands described in the list hereto attached. The list of taxes, including taxes reduced to judgment, upon real estate, which appear from the records in the office of the county treasurer of the county of _____, State of South Dakota, which are delinquent for the year as therein shown, which have not been paid for any of the years as therein shown, having been filed as required by law in the office of the county treasurer and county auditor of said county of _____, of which the list attached is a copy, pursuant to the provisions of chapter 10-26 of the South Dakota Codified Laws, being a proceeding for enforcing the payment of taxes upon real estate for the said county of _____ remaining delinquent for six years or more.

"NOTICE IS HEREBY GIVEN that the right of redemption will expire AND TAX DEED will be issued to _____ county upon the expiration of sixty days from the completed service of this notice unless redemption is made as provided by law.

(Signed) _____ Treasurer of _____ county"

Section 83. That § 10-26-5 be amended to read as follows:

10-26-5. The county treasurer shall also give notice of intention to take tax deed by the county of the property by publishing notice in the designated newspapers of the county in which the real estate is situated. The notice shall be published at least two successive weeks before November tenth of the year in which the list is prepared and filed. The notice shall be substantially in the following form:

"NOTICE OF INTENTION TO TAKE TAX DEED BY COUNTY

"NOTICE IS HEREBY GIVEN that WHEREAS the taxes remain unpaid upon real property described in that certain delinquent tax list, which is now on file in the offices of the county treasurer and county auditor of _____ county of South Dakota, giving the years of all taxes delinquent for a period of six years or more immediately preceding the filing of said list as aforesaid, that the right of redemption will expire and TAX DEED will be issued to _____ county upon the expiration of sixty days from the completed service of this notice unless redemption is made as provided by law.

(Signed) _____ Treasurer of _____ county"

Section 84. That § 10-26-6 be amended to read as follows:

10-26-6. The treasurer shall file in the treasurer's office and in the auditor's office on or before November twentieth of the year in which the list is prepared and filed an affidavit of completed service that tax deed will issue, which shall be substantially in the following form:

"AFFIDAVIT OF COMPLETED SERVICE OF NOTICE

TO TAKE TAX DEED

"State of South Dakota

County of _____ ss.

"_____, being first duly sworn, on oath states that he or she is (agent or attorney for) the duly elected, qualified, and acting county treasurer of _____ county, South Dakota; that he or she has conducted the proceedings to take TAX DEED FOR SAID REAL ESTATE, PURSUANT TO THE PROVISIONS OF CHAPTER 10-26 of the South Dakota Codified Laws. Affiant further states that he or she filed in the office of the county treasurer and county auditor a copy of the DELINQUENT TAX LIST and posted one, at the place designated by the county commissioners for posting legal notices at the county courthouse pursuant to § 17-3-1 of the South Dakota Codified

Laws and sent such notices, as required by this chapter. Affiant further states that he or she caused notice to be served by publishing the same once a week for two successive weeks in the official newspaper of the county; and proof of such publication is attached hereto and made a part of this affidavit. That such service is now complete in all things and the costs and expenses in connection therewith were as follows:

(Here insert a list of all costs and expenses) (Signed) _____

"Subscribed and sworn to before me this _____ day of _____, 20 ___.

_____

Notary Public"

Section 85. That § 10-26-7 be amended to read as follows:

10-26-7. The treasurer shall execute a tax deed to the county of any piece or parcel or lot of land and shall include in the deed any number of descriptions, which may be substantially in the following form:

"I, _____, treasurer of the county of _____ do hereby certify that pursuant to chapter 10-26 of the South Dakota Codified Laws in proceedings to enforce the payment of taxes delinquent upon real estate for six years or more, in the county of _____, I did on or before the tenth day of September _____, file in my office and in the office of the county auditor, a list of all taxes upon all real property which appear from the tax records to be delinquent, in the office of the county treasurer in said county.

"And it appearing that such real property has not been redeemed; that notice of right to redeem has been given as required by law; that sixty days have expired since the completed service of such notice; that such real property was charged on the tax list, and that the same was legally advertised.

"NOW, THEREFORE, THIS INDENTURE made this _____ day of _____, _____, by _____, treasurer of said county, party of the first part, and the said _____ county, party

of the second part, I do, therefore, pursuant to the statute in such cases made and provided, convey the said piece, parcel or lot or pieces, parcels or lots of land in fee simple to _____ county as provided by said chapter 10-26 of the South Dakota Compiled Laws of 1967, described as follows, to wit: to have and to hold the said mentioned tract or parcel of land, with the appurtenances thereto belonging, to _____ county, the said party of the second part, and its assigns forever, in as full and ample manner as the said treasurer of said county is empowered by law to convey the same.

"In Testimony Whereof, the said _____ treasurer of the said county of _____ has hereunto set his hand and seal on the day and year aforesaid.

"ATTEST:

_____

Treasurer of _____ county

_____

Auditor of _____ county

"ACKNOWLEDGMENT

"State of South Dakota

County of _____ ss.

"On this _____ day of _____, in the year _____, before me personally appeared _____ county treasurer of the said county of _____ known to me to be the person who is described in and who executed the within instrument and acknowledged to me that he executed the same.

_____

_____

"Office of Register of Deeds

State of South Dakota ss.

_____ County

"I hereby certify that the within instrument was filed in this office for record on the _____ day of _____ A. D., _____ at _____ o'clock ____m., and recorded in Volume _____ of _____ on page _____.

REGISTER OF DEEDS

By _____ Deputy"

Section 86. That § 10-26-8 be amended to read as follows:

10-26-8. The county treasurer shall attach a copy of the affidavit of completed service to the copy of delinquent taxes on file in the treasurer's office and that of the county auditor's office.

Section 87. That § 10-26-9 be amended to read as follows:

10-26-9. The county treasurer may not charge or collect any fee for any of the services required of the treasurer in this chapter. However, the county treasurer may appoint an agent or attorney, with the approval of the board of county commissioners, at such compensation as the board may determine, to assist the county treasurer in administering the provisions of this chapter.

Section 88. That § 10-27-1 be amended to read as follows:

10-27-1. No injunction to restrain or delay the collection of any tax claimed to be due may be issued by any court. However, in any case in which, for any reason, it is claimed that any tax about to be collected is wrongful or illegal, in whole or in part, the remedy, except as otherwise expressly provided by this code, is by payment under protest and action to recover, as provided in § 10-27-2.

Section 89. That § 10-27-3 be amended to read as follows:

10-27-3. In any action or proceeding to recover real property sold for taxes, or to invalidate or cancel any tax sale certificate, tax deed, or other tax sale proceeding, the party seeking such relief shall specify and tender in the party's pleading the amount of the tax, if any, that the party concedes to be due. If any opposing party who claims an interest in the tax or property serves and files a

pleading accepting the amount so tendered, the party seeking relief shall within ten days thereafter deposit the sum tendered with the county treasurer of the county or counties involved, and take and file with the clerk of the court the receipt provided by the treasurer for the deposit.

Section 90. That § 10-27-6 be amended to read as follows:

10-27-6. If the court finds that the party seeking relief was prevented from paying the tax because of lack of any original legal assessment, equalization, levy, or listing of the tax and that the party or the party's predecessors in interest in good faith failed or neglected to pay the tax on that account, the court may waive the requirement of deposit of interest. However, this provision does not relieve the county and taxing districts involved from payment of interest to the person who may originally have paid the tax or any part of the tax to or for them if the county has been made a party to the action. The court's order may direct the deposit to be made within such time as the court deems just but not less than ten days nor more than ninety days may be allowed for the deposit. Unless the party seeking such relief makes the deposit within such time as ordered, or stays the order by appeal to the Supreme Court, the action shall be dismissed upon the merits upon motion of any party to the action. If the party seeking relief makes the deposit as directed by the court, the action or proceeding shall then proceed to final determination, upon all issues involved. The making of the deposit is not an admission, estoppel, or other legal conclusion for or against any party. The making of the deposit may be considered only as a security for the purposes contemplated by this chapter.

Section 91. That § 10-39-42 be amended to read as follows:

10-39-42. Terms used in this chapter mean:

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

(2) "Precious metals," gold and silver;

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

(4) "Severing," the mining, extracting, or producing of any precious metal.

Section 92. That § 10-39-45.3 be amended to read as follows:

10-39-45.3. On or before the last day of January, April, July, and October, each person who mined or extracted precious metals during the previous calendar year shall file with the Department of Revenue and Regulation a verified estimate of the person's tax for the current year and pay one-fourth of the estimated taxes.

Section 93. That § 10-39-51 be amended to read as follows:

10-39-51. A taxpayer who is required by the secretary of revenue and regulation to pay a tax that the taxpayer deems improper or unlawful in amount may pay the tax under protest and may recover the tax without interest, if an action is commenced in the circuit court against the secretary within six months after payment and a judgment is granted to the taxpayer. A judgment against the secretary shall be paid out of any money not otherwise appropriated in the state general fund upon a voucher duly approved by the secretary. This remedy is exclusive of all other remedies and no injunction to restrain or delay the collection of a tax claimed to be due may be issued by any court in this state.

Section 94. That § 10-39A-1 be amended to read as follows:

10-39A-1. For the privilege of severing energy minerals in this state, there is imposed on the owner or operator of any energy mineral an excise tax, to be termed a "severance tax," equal to four and one-half percent of the taxable value of any energy minerals severed and saved by or for the owner or operator.

Section 95. That § 10-39A-1.1 be amended to read as follows:

10-39A-1.1. Terms used in this chapter mean:

(1) "Energy minerals," any mineral fuel including coal, lignite, petroleum, oil, natural gas, uranium, and thorium and any combination of minerals used in the production of energy;

(2) "Market value," the price at which the property would change hands between a willing buyer and willing seller, neither being under any compulsion to buy or sell and both

having reasonable knowledge of the facts;

(3) "Operator," a person who directly or physically severs minerals from the land;

(4) "Owner of interest" or "owner," an owner of a landowner's royalty, of an overriding royalty, or of profits and working interests, or any combination thereof. The term does not include an owner of federal, state, or local governmental royalty interest;

(5) "Sale price," the total consideration received in exchange for energy minerals;

(6) "Secretary," the secretary of the South Dakota Department of Revenue and Regulation;

(7) "Severing," the mining, extracting, or producing of any energy minerals in South Dakota;

(8) "Severor," a person engaging in the business of severing energy minerals that the person owns or a person who is the owner of energy minerals and has another person performing the severing of such energy minerals, except that the term does not include the State of South Dakota or its political subdivisions.

Section 96. That § 10-39A-3 be amended to read as follows:

10-39A-3. The tax provided for in this chapter shall be collected and administered as provided in chapter 10-39. However, §§ 10-39-24 to 10-39-26, inclusive, §§ 10-39-28 to 10-39-31, inclusive and § 10-39-35 do not apply to the tax imposed by this chapter.

Section 97. That § 10-39A-4 be amended to read as follows:

10-39A-4. Each owner of interests in energy minerals produced from a single well or mine shall designate an operator to file all required returns and to pay the tax due under this chapter. The tax, subject to any provisions to the contrary in any written contract, lease, or other form of agreement, shall be withheld from distributions that would otherwise be made to each owner by the operator for payment to the state. If any owner of interests in energy minerals produced from a single well or mine fails to designate such an operator, then the person designated as operator by the owner of the working interest in the well or mine, or, if no such person has been designated, then the person

holding the greatest portion of the working interest in such well or mine, is the designated operator for purposes of this section.

Section 98. That § 10-39A-7 be amended to read as follows:

10-39A-7. This tax is in lieu of the tax provided in § 10-39-24 and in lieu of all other occupational, excise, income, privilege, franchise taxes, and any other mineral taxes levied by the State of South Dakota, but is not in lieu of sales, use, and property taxes.

Section 99. That § 10-39A-8.2 be amended to read as follows:

10-39A-8.2. The dollar balance in the energy impact fund may not exceed one hundred thousand dollars. Any excess over one hundred thousand dollars shall be credited to the state general fund.

Section 100. That § 10-39A-12 be amended to read as follows:

10-39A-12. Nothing in §§ 10-39A-11 to 10-39A-14, inclusive, obligates any person or corporation to prepay a severance tax except under voluntary agreement. Any action by a county commissioner or any other public official to compel involuntary prepayment of severance tax constitutes malfeasance of office.

Section 101. That § 10-39A-13 be amended to read as follows:

10-39A-13. No agreement for prepayment of severance tax may involve funds other than those to be returned to a county under the provisions of subdivision 10-39A-8(1).

Section 102. That § 10-43-5 be amended to read as follows:

10-43-5. The tax referred to in §§ 10-43-2 and 10-43-2.1 is in lieu of all other taxes and licenses, state, county, and local, except taxes upon the institutions' real property, taxes upon the institutions' leased sites, taxes upon tangible personal property not normally used in extension of credit or acceptance of deposits, and the retail occupational sales tax or the use tax on tangible personal property. However, tangible personal property acquired by the financial institution through a foreclosure proceeding is exempt from such other taxes. The institutions taxed by §§ 10-43-2 and

10-43-2.1 are exempt from other net income taxation by this state.

Section 103. That § 10-43-34 be amended to read as follows:

10-43-34. Every corporation taxable under this chapter shall make a return and the return shall be sworn to by the president, vice-president, or other principal officer, and by the treasurer or assistant treasurer. Before a corporation may be dissolved and its assets distributed, the corporation shall make a return for any settlement of the tax for any income earned in the income year up to its final date of dissolution.

Section 104. That § 10-43-46 be amended to read as follows:

10-43-46. Any person, corporation, or any officer or employee of a corporation, or member or employee of any partnership, who, with intent to evade any of the requirements of this chapter or any lawful requirements of the secretary of revenue and regulation pursuant to this chapter, makes a false or fraudulent return or statement or supplies false or fraudulent information is guilty of a Class 1 misdemeanor. In addition, the person, corporation, officer, employee, or member is liable for a civil penalty of not more than five thousand dollars, to be recovered by the attorney general, in the name of the state. The civil penalty is in addition to all other penalties in this chapter.

Section 105. That § 10-43-51 be amended to read as follows:

10-43-51. If the secretary of revenue and regulation discovers from the examination of the return or otherwise that the income of the taxpayer, or any portion of the income, has not been listed in the return, or that no return was filed when one was due, the secretary may at any time within five years after the time when the return was due, determine the correct amount of the tax together with interest and penalty as provided in § 10-59-6. The tax, interest, and penalty shall be paid within ten days after the secretary of revenue and regulation has given notice of the tax, interest, and penalty to the taxpayer by registered or certified mail.

Section 106. That § 10-43-63 be amended to read as follows:

10-43-63. Any delinquent tax constitutes a debt due to the State of South Dakota and may be collected by action brought by the secretary of revenue and regulation in a court of competent jurisdiction. No exemptions from execution of a judgment so obtained are permitted except those made absolute by the exemption statutes of this state.

Section 107. That § 10-43-64 be amended to read as follows:

10-43-64. If any taxpayer liable to pay a tax or penalty imposed refuses or neglects to pay the tax or penalty, the amount, including any interest, penalty, or addition to the tax, together with the costs that may accrue in addition to the tax, penalty, and interest, constitute a lien in favor of the State of South Dakota upon all property and rights to property, whether real or personal, belonging to the taxpayer.

The lien attaches at the time the tax becomes due and payable and continues until the liability for the amount is satisfied.

Section 108. That § 10-43-65 be amended to read as follows:

10-43-65. The register of deeds of each county shall prepare and keep in the office of the register of deeds a book to be known as "index of income tax liens," so ruled as to show in appropriate columns the following data, under the names of taxpayers, arranged alphabetically:

(1) The name of the taxpayer;

(2) The name "State of South Dakota" as claimant;

(3) Time notice of lien was received;

(4) Date of notice;

(5) Amount of lien then due;

(6) When satisfied.

Section 109. That § 10-43-66 be amended to read as follows:

10-43-66. In order to preserve the lien provided by § 10-43-64 against subsequent mortgagees,

purchasers, or judgment creditors for value and without notice of the lien, on any property situated in a county, the secretary of revenue and regulation shall file with the register of deeds of the county in which the property is located a notice of the lien. The notice of lien shall be signed by the secretary, shall be in a form determined by the secretary, and shall contain the information prescribed in § 10-43-65 for the register of deeds' index.

Section 110. That § 10-43-67 be amended to read as follows:

10-43-67. The register of deeds shall endorse on each notice of lien the day, hour, and minute when received and preserve the notice. The register of deeds shall, without delay, index the notice in the index book and shall immediately record the lien in the manner provided for recording real estate mortgages. The lien is effective from the time the lien is indexed.

Section 111. That § 10-43-69 be amended to read as follows:

10-43-69. Upon the payment of a tax as to which the secretary of revenue and regulation has filed notice with a register of deeds, the secretary of revenue and regulation shall immediately file with the register of deeds a satisfaction of the tax. The register of deeds shall enter the satisfaction on the notice on file in the office of the register of deeds and indicate that fact on the index.

Section 112. That § 10-43-70 be amended to read as follows:

10-43-70. After a notice of lien has been filed as provided in § 10-43-66, the secretary of revenue and regulation may at any time require the county treasurer to issue a distress warrant in the same form as provided by statutes relating to distress warrant for mobile home taxes pursuant to chapter 10-22 and to deliver the warrant to the sheriff of the county. Upon receipt of the warrant, the sheriff shall, without delay, proceed to collect the tax by seizure and sale of personal property in the manner provided in the statutes relating to collection by distress warrant and shall remit the tax so collected to the county treasurer. For such services, the sheriff may collect from the taxpayer and retain the compensation provided in statute prescribing compensation of sheriff for distress warrant procedure.

Section 113. That § 10-43-71 be amended to read as follows:

10-43-71. If the sheriff is unable to find property of the taxpayer that may be seized and sold, the sheriff shall, within thirty days after receipt of the warrant, endorse upon the face of the warrant the word, uncollectible, and return the warrant to the county treasurer.

Section 114. That § 10-43-72 be amended to read as follows:

10-43-72. Failure or refusal of the county treasurer to issue a distress warrant if requested to do so, or of the sheriff to attempt to execute the warrant, makes the officer failing to perform the officer's duty personally liable for the delinquent tax. The tax may be recovered in an action brought against the officer and the officer's sureties by the secretary of revenue and regulation.

Section 115. That § 10-43-73 be amended to read as follows:

10-43-73. The payment of the tax levied by this chapter is, in addition to all other licenses and taxes imposed by the laws of this state, a condition precedent to the engaging or continuing to engage in a business or occupation within this state. Default in the payment of taxes as provided in this chapter constitutes cause for injunction in any court of competent jurisdiction upon application of the secretary of revenue and regulation for an order and judgment restraining and enjoining any delinquent taxpayer from engaging or continuing to engage in an occupation or business within this state.

Section 116. That § 10-56-2 be amended to read as follows:

10-56-2. If requested by the secretary of revenue and regulation, the secretary of the Department of Transportation, a county commissioner, or a sheriff, the county treasurer shall issue a distress warrant against any person whose taxes are delinquent.

Section 117. That § 10-56-6 be amended to read as follows:

10-56-6. Upon receipt of a distress warrant from the county treasurer showing delinquent taxes, the sheriff shall, without delay, diligently proceed, in accordance with §§ 10-56-8 to 10-56-21,

inclusive, to collect all taxes shown to be delinquent by each distress warrant. Failure by the sheriff to so proceed is nonfeasance of office and subjects that sheriff to removal from office in the manner provided by § 10-56-7.

Section 118. That § 10-56-8 be amended to read as follows:

10-56-8. Before seizing any property, the sheriff shall ascertain from the records of the Office of the Register of Deeds, the amount of any mortgages, conditional sales contracts, or other liens upon the property, and also the names and addresses of the lien holders. If the assessment blank is on file with the county auditor, the sheriff shall procure a copy from the county auditor of the assessment blank upon which the tax is based.

Section 119. That § 10-56-9 be amended to read as follows:

10-56-9. In making the seizure of property, the sheriff shall first seize property that is not encumbered by any lien of record. The sheriff may seize encumbered property if, after due diligence, the sheriff is unable to collect the tax from unencumbered property.

Section 120. That § 10-56-10 be amended to read as follows:

10-56-10. The warrant is deemed executed by serving a copy of it together with the notice of levy on the owner of the property or, if the owner cannot be conveniently found, by serving a copy of it on the person from whose possession the property is taken or by mailing copies of the warrant to the last known address of the owner. If no one in possession can be found, nor an address of the owner can be ascertained, then the warrant shall be executed by seizure of the property and by posting a copy of the distress warrant and the notice of levy on the bulletin board established pursuant to § 17-3-1.

Section 121. That § 10-56-12 be amended to read as follows:

10-56-12. The sheriff shall, without delay, fix a time and place for sale of the property seized, which may not be less than ten nor more than thirty days after the seizure. The place may be at any

public place in the county or where the property is located if the property cannot be conveniently moved. Notice of the sale shall be given by posting the notice in three public places in the county, at least ten days before the date of the sale. The notice shall state the time and place of the sale, the name of the person against whom the distress warrant was issued, a description of the property, and the amount of the tax claim. The notice shall identify the particular taxes for which the sale is to be made and shall refer to the warrant under which the sale is to be held. Copies of the notice shall also be mailed to all encumbrancers of record at their addresses shown in the encumbrances. If no address appears in the encumbrances, mailing the notice is not required. The failure to mail notice does not invalidate the sale, but the encumbrancer has recourse against the sheriff for any damage the encumbrancer may show.

Section 122. That § 10-56-13 be amended to read as follows:

10-56-13. If, after the seizure and any time before sale, the property owner, or any interested person, or anyone in the owner's or the interested person's behalf, pays the sheriff the amount of the tax with the legal interest, penalty, and costs that are due, then the levy or seizure is abated. The property shall be released to the owner, at the place it may then be and a receipt shall be given for the taxes paid.

Section 123. That § 10-56-14 be amended to read as follows:

10-56-14. The county treasurer shall furnish the sheriff with triplicate receipts on which is printed: "Sheriff's receipt for taxes." The sheriff shall issue receipts for any taxes, interest, penalties, fees, or costs collected. The original shall be delivered to the payor and the duplicate receipt shall be filed immediately with the treasurer, who shall cancel the tax on the duplicate tax list in the treasurer's office and enter on the duplicate tax list the date and number of the sheriff's receipt. The treasurer shall then issue a regular tax receipt for the full amount and have the receipt promptly delivered to the tax debtor.

Section 124. That § 10-56-17 be amended to read as follows:

10-56-17. If the property cannot be sold for want of bidders, the sheriff shall return the property to the possession of the person from whom or to the place where the sheriff took the property, and the taxes shall be returned as unpaid.

Section 125. That § 10-56-18 be amended to read as follows:

10-56-18. The sheriff shall make returns to the county treasurer on all distress warrants as soon as executed, and at least three months after the date of issue of the warrant. The returns shall state the amounts, if any, that have been collected upon the warrant or that, upon diligent search, no property could be found to collect the tax. The returns shall show the number of miles actually and necessarily traveled in executing each warrant and the number of warrants executed on each trip. If a sale was made under any warrant, the sheriff shall show the procedure used for the sale, including the giving of notice as required and the time and place of the sale, names, amounts bid and paid by purchasers, and the property sold to each.

Section 126. That § 10-56-21 be amended to read as follows:

10-56-21. Any surplus remaining after paying the taxes, penalty, interest, and costs shall be returned to the owner or, if the owner cannot be found, shall be deposited with the clerk of courts for the benefit of any person who may be entitled to it.

Section 127. That § 10-56-22 be amended to read as follows:

10-56-22. The sheriff shall collect the following fees for collecting taxes: one dollar for making the sheriff's return on the sheriff's warrant of authority; one dollar for each levy; one dollar for each sale; and the necessary costs of distress and sale. The fees and costs shall be collected from the tax debtor or the debtor's property. If actual travel is made in collecting taxes, the sheriff shall also collect from the tax debtor or the debtor's property an additional penalty, in lieu of mileage, equal to fifteen percent of the amount of tax and interest due, which, with all fees and costs collected, shall

be credited to the general fund of the county. The sheriff shall receive mileage, at the rate provided by law, for each mile actually and necessarily traveled from the official for whom the tax was collected.

Section 128. That § 10-58-6 be amended to read as follows:

10-58-6. Every owner or operator shall properly display the owner's or operator's registration on each machine as prescribed by the Department of Revenue and Regulation. Failure to so display the prescribed indicia of registration constitutes prima facie evidence that the machine is not registered.

Section 129. That § 10-59-4 be amended to read as follows:

10-59-4. For the purposes of this chapter, the term, certificate of assessment, means any certificate issued by the secretary indicating tax, penalty, or interest due. The certificate indicates the type of tax due, the amount of tax due, and the period of time covered by the assessment. The certificate also contains a short statement of the reasons for the assessment. The secretary shall use his or her best judgment in preparing the certificate, but error in the certificate does not relieve a taxpayer of liability for tax, penalty, or interest due under the laws of this state.

Section 130. That § 35-1-2 be amended to read as follows:

35-1-2. The secretary shall administer the law as set forth in this title, and may employ such help and purchase such equipment and supplies as are necessary for performance of the secretary's duties.

Section 131. That § 35-1-3 be amended to read as follows:

35-1-3. Neither the secretary nor any of the secretary's employees may, directly or indirectly, have any interest, financial or otherwise, in the production, transportation, storage, or sale of alcoholic beverages.

Section 132. That § 35-1-4 be amended to read as follows:

35-1-4. No person may produce, transport, store, or sell any alcoholic beverage except as authorized under the provisions of this title.

Section 133. That § 35-1-5.2 be amended to read as follows:

35-1-5.2. No licensee regularly licensed to do business before July 1, 1971, may be denied renewal of a license in subsequent years solely by reason of any reduction in the number of licenses that may be authorized or established within any municipality by reason of chapter 211 of the Session Laws of 1971. Any person holding an on-sale dealer's retail license of any of the existing classes or holding a Class Q license issued under the provisions of former subdivision 35-4-2(17) on July 1, 1971, may be issued an on-sale license from the appropriate governing board having jurisdiction, upon application to the governing board for an on-sale license within appropriate classifications established.

Section 134. That § 35-1-5.3 be amended to read as follows:

35-1-5.3. It is a Class 2 misdemeanor for any person to consume any intoxicating liquor or to mix or blend any alcoholic beverage with any other beverage, regardless of whether the beverage is an alcoholic beverage, in any public place, other than upon the premises of a licensed on-sale dealer where the alcoholic beverage was purchased from the dealer for on-sale purposes. For purposes of this section, the term, public place, means any place, whether in or out of a building, commonly and customarily open to or used by the general public and any street or highway. However, this section does not apply if the county commissioners or the governing body of the municipality, charged with the approval of alcoholic beverage license issuance, in their respective jurisdictions, give prior authorization for persons to consume or blend alcoholic beverages, but not to engage in the sale of the alcoholic beverages, in or upon property described by the authorizing governmental subdivision, and if the property is publicly owned, or owned by a nonprofit corporation. The permit period may not exceed twenty-four hours, and hours of authorized consumption may not exceed those permitted for on-sale licensees.

Section 135. That § 35-1-7 be amended to read as follows:

35-1-7. Any person who, in any application, report, or statement filed with the secretary of revenue, knowingly makes a false statement as to any matter required by any provision of this title to be set forth in the application, report, or statement, is guilty of a Class 6 felony.

Section 136. That § 35-1-8 be amended to read as follows:

35-1-8. No manufacturer, distributor, wholesaler, or transporter may sell or deliver any package containing alcoholic beverages manufactured or distributed for resale, unless the person to whom the package is sold or delivered is authorized to receive the package in accordance with the provisions of this title.

Section 137. That § 35-1-8.1 be amended to read as follows:

35-1-8.1. The provisions of this title relating to licensing and taxation do not apply to the purchase and sale of wines used by ordained rabbis, priests, ministers, or pastors of any church or established religious organization for sacramental purposes within the state.

Section 138. That § 35-1-9 be amended to read as follows:

35-1-9. No licensee under this title may keep or store any alcoholic beverages at any place within the state other than on the premises where the licensee is authorized to operate. However, any such licensee may store such alcoholic beverages in a warehouse licensed under § 35-4-44 or with a bonded warehouse that has qualified under § 35-4-45. Such storage is subject to rules promulgated by the secretary pursuant to chapter 1-26. However, in localities where there is no such bonded warehouse, the secretary may, by rules promulgated pursuant to chapter 1-26, provide for storage of malt beverages.

Section 139. That § 35-2-1.1 be amended to read as follows:

35-2-1.1. Any application under this title for a manufacturer, distiller, wholesaler, solicitor, transporter, carrier, or dispenser license, and any application for a license to be issued to a county or municipality shall be initially submitted to the secretary who may approve or disapprove the

application depending on whether the secretary deems the applicant a suitable person to hold the license and whether the secretary considers the proposed location suitable.

Section 140. That § 35-2-1.2 be amended to read as follows:

35-2-1.2. Any application for a retail license, except as set forth in § 35-2-1.1, shall be submitted to the governing board of the municipality within which the applicant intends to operate, or if outside the corporate limits of a municipality, to the board of county commissioners of the county in which the applicant seeks to operate. The application shall be accompanied by the required fee. The governing board may approve or disapprove the application depending on whether the governing board deems the applicant a suitable person to hold the license and whether the governing board considers the proposed location suitable.

Section 141. That § 35-2-2.1 be amended to read as follows:

35-2-2.1. Every application for a license under this chapter shall include an agreement by the applicant that the applicant's premises, for the purposes of search and seizure laws of the state and any ordinances of the municipality wherein license is applied for, are considered public premises. In addition, the agreement shall specify that:

(1) The premises and all buildings, safes, cabinets, lockers, and storerooms on the premises are at all times, on demand of the secretary, the attorney general, or officers charged with law enforcement in the county or municipality, open to inspection;

(2) All of the applicant's records and books dealing with the sale and ownership of alcoholic beverages are open to the persons specified in subdivision (1) for such inspection; and

(3) The application and license issued on the application constitute a contract between the applicant and the state and the county or municipality having jurisdiction entitling them, for the purpose of enforcing the law, rules, and ordinances, to inspect the applicant's premises and books at any time.

Section 142. That § 35-2-3 be amended to read as follows:

35-2-3. No license for the on- or off-sale at retail of alcoholic beverages, as those terms are defined and classified under the provisions of this title, may be granted to an applicant for any such license, except after public hearing, upon notice, as provided for in §§ 35-2-4 and 35-2-5.

Section 143. That § 35-2-4 be amended to read as follows:

35-2-4. If any resident of an incorporated municipality files with the auditor or finance officer of the municipality, or if any resident of the county files with the county auditor of any county, a written request that the resident be notified of the time and place of hearing upon any specified application for a license for the on- or off-sale at retail of alcoholic beverages, the auditor or finance officer, as the case may be, shall give notice to the resident. The notice shall be by mail and shall be given a sufficient length of time before the hearing upon the application so as to allow the resident a reasonable opportunity to be present.

Section 144. That § 35-2-5 be amended to read as follows:

35-2-5. The governing board of any incorporated municipality or the board of county commissioners of any county, before which applications for licenses referenced in § 35-2-3 are presented, shall fix the time and place for hearing upon all such applications that come before the board. The auditor or finance officer of the board shall publish notice once in the official newspapers of the municipality or county. The notice shall be headed "Notice of Hearing Upon Applications for Sale of Alcoholic Beverages," shall state the time and place when and where such applications will be considered by the board, and shall state that any person interested in the approval or rejection of any such application may appear and be heard. The notice shall be published at least one week before the hearing. At the time and place so fixed, the board shall consider each application and any objection to the application before making its final decision on the application.

Section 145. That § 35-2-6.6 be amended to read as follows:

35-2-6.6. No licensee may permit any person to become intoxicated on the premises described on the license.

Section 146. That § 35-2-8 be amended to read as follows:

35-2-8. If an individual licensee under this title, other than a solicitor or dispenser licensee under chapter 35-4, dies, the personal representative of the deceased licensee may succeed to all of the rights of the deceased licensee under the license. By operating under the license, the personal representative agrees to all of the terms and conditions of the license and is subject to all of the liabilities and responsibilities of such a licensee. Any bond executed under the provisions of this title includes the personal representative as a principal if the license passes to the personal representative.

Section 147. That § 35-2-9 be amended to read as follows:

35-2-9. Any licensee authorized to deal in alcoholic beverages, upon termination of the license, may at any time within thirty days after the termination of the license sell the whole or any part of the alcoholic beverages included in the licensee's stock in trade at the time of the termination to any wholesaler licensed under this title to deal in the alcoholic beverages so purchased by the wholesaler. The wholesaler shall make a complete report of the purchase to the secretary of revenue and regulation.

Section 148. That § 35-2-10 be amended to read as follows:

35-2-10. The secretary, in compliance with chapter 1-26, may revoke or suspend any license issued under this title upon proof of violation by the licensee, by the licensee's agents or employees, or by the manager or contractual operators of retail establishments and their agents or employees operating under a county or municipal license, of any of the following:

(1) Any provision of this title;

(2) Any rule promulgated pursuant to this title; or

(3) Any ordinance or regulation relevant to alcoholic beverage control that has been adopted

by the political subdivision issuing the license.

For any licensee with multiple alcoholic beverage licenses for the same premises, upon suspension or revocation of any license pursuant to this chapter, the licensee shall cease operation under all alcoholic beverage licenses held by the licensee for the same premises for the same period as the suspension or revocation.

Section 149. That § 35-2-12 be amended to read as follows:

35-2-12. If the secretary receives information of violation by any licensee of any provision of this title, the secretary shall, without delay, investigate the alleged violation. Any person may file with the secretary a duly verified complaint as to any such violation by any such licensee. Upon receipt of the complaint, the secretary shall, without delay, make a thorough investigation. If there is substantial evidence to support the charge made in the complaint, the secretary shall cause proceedings to be instituted for revocation of the license.

Section 150. That § 35-2-19 be amended to read as follows:

35-2-19. Upon service of notice of a decision or order for revocation of the license on the licensee, all of the licensee's rights under the license terminate ten days after the notice, except in the event of a stay on appeal.

Section 151. That § 35-2-20 be amended to read as follows:

35-2-20. No licensee under this title, whose license is revoked, may be granted any license under this title for one year after the revocation. If any relative of any such former licensee, as relative is defined by § 35-2-6.5, or any of the former licensee's employees or former employees, applies for any such license before the one-year period has elapsed, the license may be granted only upon affirmative and satisfactory proof that the former licensee has no interest in the business.

Section 152. That § 35-2-21 be amended to read as follows:

35-2-21. If in any proceeding under this chapter a violation is established, but the secretary is

satisfied that the nature and the circumstances of the violation were such that a suspension of the license would be adequate, the secretary may, instead of revoking the license, suspend it for a period not exceeding sixty days. The suspension is effective twenty-four hours after service of notice of the suspension upon the licensee. During the period of the suspension, the licensee may not exercise any rights or privileges under the license. The secretary may, in lieu of suspending or revoking the license, accept a monetary offer in compromise in settlement of any proceeding under this chapter. The amount of the offer in compromise may not exceed seventy-five thousand dollars. The secretary may also recover the actual costs of investigation and prosecution.

Section 153. That § 35-3-1 be amended to read as follows:

35-3-1. Any incorporated municipality may provide by ordinance for police supervision and enforcement of the provisions of this title as to any licensee who operates within one mile of the territorial limits of the municipality.

Section 154. That § 35-3-6 be amended to read as follows:

35-3-6. The term, municipality, as used in §§ 35-3-7 to 35-3-27, inclusive, includes any incorporated municipality and any organized township in which an unincorporated town is situated.

Section 155. That § 35-3-7 be amended to read as follows:

35-3-7. Any municipality may, by vote of its electors, as provided in §§ 35-3-8 to 35-3-23, inclusive, determine whether or not alcoholic beverages, except malt beverages, may be sold within the municipality by on-sale dealers. The municipality may also in the same manner determine whether the municipality shall procure a license or licenses for the sale of alcoholic beverages, except malt beverages, at retail, or, if the municipality is engaged in such a business, whether the license or licenses shall be renewed.

Section 156. That § 35-3-9 be amended to read as follows:

35-3-9. Except as otherwise expressly provided in this chapter, the form of a petition under § 35-

3-8, the manner of calling the election, the provision of notice of the election, the conduct of the election, and the canvass and return of votes shall be as set forth by the provisions of this code relative to elections in incorporated municipalities for referred or initiated ordinances. However, for such elections in organized townships, the election shall be called, notice of the election given, and the election held as set forth in the provisions of this code relative to special township meetings.

Section 157. That § 35-3-11 be amended to read as follows:

35-3-11. If at the election on the question specified in § 35-3-10, the majority vote is in the affirmative, on-sale licenses to operate in the municipality may be granted as otherwise provided in this code, unless the same question is again submitted and the majority vote is in the negative. If the majority vote on the question is in the negative, all on-sale licenses are thereby terminated thirty days after the canvass of the vote at the election, and no on-sale license to operate in the municipality may thereafter be granted unless the same question is again submitted and the majority vote is in the affirmative, or unless there is submitted the question of a license being granted to the municipality and the majority vote on the question is in the affirmative.

Section 158. That § 35-3-16 be amended to read as follows:

35-3-16. If the parties referred to in § 35-3-15 agree to arbitration, the board of arbitration shall consist of one arbitrator to be selected by the municipality, one selected by the former licensee, and a third selected by both of the selected arbitrators. The determination of any arbitrators shall govern. However, no municipality as defined in § 35-3-6 is bound to purchase any fixtures, equipment, or stock acquired by any former licensee after the filing of the petition submitting the question specified in § 35-3-12. The determination as to value of the fixtures, equipment, and stock is binding on the parties. However, the value may not exceed the invoice price plus any federal tax paid thereon subsequent to its acquisition, and the aggregate of the stock may not exceed the level of the average inventory of such stock carried by the dealer for the two years immediately preceding the holding

of the election providing for the municipal sale of alcoholic beverages under chapter 35-4.

Section 159. That § 35-3-18 be amended to read as follows:

35-3-18. Every municipal liquor establishment shall be operated and conducted under the direction of the governing body of the municipality. The governing body may fix the prices to be charged on all sales of liquor. If the prices are fixed by the governing body, the manager and the manager's assistants shall conform to the prices in the making of all sales.

Section 160. That § 35-3-20 be amended to read as follows:

35-3-20. A copy of each purchase invoice for liquor store supplies delivered to and signed by the municipal liquor store manager or the manager's assistant shall be filed monthly with the municipal auditor or finance officer covering purchases for each establishment. The invoice shall clearly distinguish between off-sale and on-sale purchases and shall indicate the license classification under which all purchases are made.

Section 161. That § 35-3-21 be amended to read as follows:

35-3-21. Every municipality engaged in the sale of alcoholic beverages, pursuant to the provisions of chapter 35-4, wherein a business under an on-sale and off-sale license is conducted, shall make a separate accounting of all transactions involving purchases, sales, and inventories pertaining to the business conducted under each of the licenses. The municipality shall maintain appropriate records and methods of accounting for an accurate determination of the sales returns and gross profits resulting from the operation of the business under each of the licenses.

Section 162. That § 35-3-24 be amended to read as follows:

35-3-24. If, at a special election on the questions specified in subdivisions 35-3-23(1) and (2), the majority vote is in the negative on the question in subdivision (1), the governing board of the municipality may not apply for the renewal of either the off-sale license or the on-sale license. If the majority vote is in the negative on the question in subdivision (2), the governing board of the

municipality may not apply for the renewal of the on-sale license.

Section 163. That § 35-3-25 be amended to read as follows:

35-3-25. If the result of an election held after the establishment of a business pursuant to this chapter requires the municipality to cease operation of the business, or any part of the business, the governing board of the municipality may liquidate the business and the assets of the business in a manner determined by resolution of the governing board, not inconsistent with the provisions of this title.

Section 164. That § 35-3-26 be amended to read as follows:

35-3-26. If the question of whether on-sale licenses shall be granted has been submitted to the voters of a municipality, the same question may not be resubmitted within a year thereafter. If either of the questions specified in §§ 35-3-12 and 35-3-23 has been submitted to the voters of a municipality, neither question may be submitted within a year thereafter.

Section 165. That § 35-3-27 be amended to read as follows:

35-3-27. If an existing license is terminated as the result of a special election, a pro rata portion of the license fee shall be refunded to the licensee according to the portion of the license period that has not elapsed upon the termination. The refund shall be made by the state and the municipality pro rata according to the portions of the fee retained respectively by the state and the municipality.

Section 166. That § 35-4-5.1 be amended to read as follows:

35-4-5.1. No manufacturer, rectifier, distiller, jobber, or distributor of distilled spirits, or a copartner or a majority stockholder of a parent or subsidiary corporation directly or indirectly interested in any of them may be granted a wholesale license or be granted a renewal of such a license under this chapter.

Section 167. That § 35-4-5.5 be amended to read as follows:

35-4-5.5. The provisions of § 35-4-5.1, as to the granting of a wholesale license and the renewal

of a wholesale license do not apply to any individual, copartnership, or corporation who or which on July 1, 1970, was the holder of a wholesaler's license.

Section 168. That § 35-4-13 be amended to read as follows:

35-4-13. If by reason of the annexation of territory by any municipal corporation or county, the premises of an on-sale licensee are transferred from one jurisdiction to another, the licensee may continue to legally operate until the expiration of the license. Thereafter, the licensee may apply for renewal of the license to the governing board that has jurisdiction of the licensed premises. The license application may not be denied on the grounds that, by the issuance of the license, more on-sale licenses are in existence than is permitted by the limitations of this chapter.

Section 169. That § 35-4-14.1 be amended to read as follows:

35-4-14.1. Any municipality with a population in excess of thirty-five thousand that operates an airport pursuant to chapter 50-7 and holds a valid license under § 35-4-14 and subdivision 35-4-2(11), may, in addition to the airport use under § 35-4-14, use the license at any bona fide convention activity or at any bona fide entertainment event, including any theatrical or musical performance, rodeo, or traveling show if the event is held at a convention hall established pursuant to chapter 9-52 or chapter 9-53. However, the selling, serving, or dispensing of any alcoholic beverage at the bona fide entertainment event may not occur more than one hour before the commencement of the event or at any time after the event is concluded; and such selling may only be conducted within areas designated for that purpose.

Section 170. That § 35-4-21 be amended to read as follows:

35-4-21. An operating agreement under subdivision 35-4-19(2) shall include at least the following provisions:

(1) The manager is responsible for all operating expenses, including taxes, insurance, and license fees, if any;

(2) The manager may dispense only liquors supplied by the municipal off-sale establishment;

(3) The agreement shall be for a period of not to exceed five years with the provision of one extension of not to exceed five years in the discretion of the governing board;

(4) Cancellation of the agreement shall be made upon ninety days' written notice by either party;

(5) The manager shall pay for all liquors supplied by the municipal off-sale establishment, the actual cost price, the transportation charges and markup, and such additional compensation or fee as may be mutually agreed upon by both parties;

(6) A complete and detailed record shall be maintained by the municipality of all liquors supplied the on-sale manager. All such liquors shall be evidenced by prenumbered invoices prepared in triplicate showing the date, quantity, brand, size, and actual cost as set forth in subdivision (5) of this section. The invoices shall bear the signature of the on-sale manager or the manager's authorized representative. One copy of the invoice shall be retained by the off-sale establishment, one copy shall be retained by the on-sale establishment, and one copy shall be filed with the municipal auditor or clerk. All copies shall be kept as permanent records and made available for reference and audit purposes.

Section 171. That § 35-4-23 be amended to read as follows:

35-4-23. An operating agreement pursuant to § 35-4-22 shall include at least the provisions required by subdivisions 35-4-21(1) to (4), inclusive, and (6), and shall also provide that the manager shall receive as full consideration under the agreement a percentage of the fixed markup from the off-sale establishment under his or her management as agreed upon by the governing board of the municipality and the manager after establishing a fixed markup in excess of the actual cost of all liquors supplied by the municipal off-sale licensee. The actual cost shall include cost price and transportation charges. The markup percentage shall be mutually agreed upon by both parties.

Section 172. That § 35-4-41 be amended to read as follows:

35-4-41. The period covered by licenses under this chapter is from twelve o'clock midnight on the thirty-first day of December to twelve o'clock midnight on the thirty-first day of the next December. However, the license is valid for an additional three days if a proper application for a new license is in the possession of the secretary before midnight on the thirty-first day of December when the license expires. The full fee shall be charged for any license for a portion of the period, except as provided in subdivision 35-4-2(1).

Section 173. That § 35-4-44 be amended to read as follows:

35-4-44. A distiller licensee may maintain warehouses at points other than designated in the distiller's license for temporary storage and distribution of alcoholic beverages, upon filing with the secretary a full and complete description of each such warehouse and upon payment of an additional annual license fee of one thousand dollars for each such warehouse.

Section 174. That § 35-4-45 be amended to read as follows:

35-4-45. Any bonded warehouse within South Dakota may, upon compliance with the provisions of this section, receive alcoholic beverages for storage purposes. Before receiving any such beverages, the bonded warehouse shall furnish, in addition to any bond previously furnished under the general laws, a bond in the amount of ten thousand dollars guaranteeing that the bonded warehouse, its officers, employees, and agents will comply with all provisions of this chapter and chapter 35-5 applicable to the bonded warehouse. The bond shall be in a form prescribed by the secretary and shall be approved by and filed with the secretary.

Section 175. That § 35-4-47 be amended to read as follows:

35-4-47. Except as provided in §§ 35-2-9 and 35-10-16, distiller and wholesaler licensees may purchase or receive alcoholic beverages only from:

(1) Distillers or wholesalers licensed under this chapter;

(2) Transportation licensees, including deliveries by the transportation licensees through a freight, express, or parcel post depot within the municipality where the distiller or wholesaler licensee operates, and including any beverages so transported that have been imported from outside the state;

(3) Bonded warehouses as provided in § 35-4-45.

Section 176. That § 35-4-52 be amended to read as follows:

35-4-52. No distiller or wholesale licensee may attempt to promote the sale of liquor by tie-in sales arrangements or by any device such as gifts or other concessions of financial value to a customer. The distiller or wholesale licensee may promote sales only on the basis of price competition, salesmanship, reliability as a supplier, and other ordinary competitive business practices.

Section 177. That § 35-4-60 be amended to read as follows:

35-4-60. Except as provided by § 35-4-61, retail licensees may buy or receive alcoholic beverages only from wholesale licensees licensed under this chapter. Dispenser licensees may buy or receive alcohol only, and only from wholesale licensees or from wholesalers outside the state.

Section 178. That § 35-4-60.2 be amended to read as follows:

35-4-60.2. A licensee licensed under subdivision 35-4-2(16) or (17) shall purchase the malt beverages that the licensee sells from the municipality if the municipality in which the licensee is located is licensed under subdivision 35-4-2(5) and if the municipality has by ordinance required that such purchases be made from the municipality. A municipality selling malt beverages to any licensee licensed under subdivision 35-4-2(16) or (17) may not charge the licensee more than five percent above the municipality's cost for malt beverages plus freight unless the municipality has operating agreements in effect on April 1, 1988, for its on-sale alcoholic beverage licensees licensed pursuant to subdivision 35-4-2(4) and imposes a mark-up higher than five percent for malt beverages. The

municipality shall charge all such licensees the same price for malt beverages.

Section 179. That § 35-4-66 be amended to read as follows:

35-4-66. Alcoholic beverages, except malt beverages, may be transported only:

(1) By transporter licensees in the course of delivery to persons authorized under this title to receive such alcoholic beverages;

(2) By distillers or wholesale licensees in their own vehicles, carrying their own merchandise;

(3) By solicitor licensees, such transportation being confined to samples, sealed or unsealed, of products for which orders are solicited;

(4) By individuals, interstate transportation being confined to alcoholic beverages in quantities of one gallon or less, intrastate transportation not being restricted as to quantity, but in either case the alcoholic beverages must have been purchased by the individuals for personal use;

(5) By common carriers in interstate commerce where the shipment originates outside the state and is destined for a point outside the state;

(6) By carrier licensees, as to that included in the stock in trade of the licensees.

Section 180. That § 35-4-71 be amended to read as follows:

35-4-71. No dispenser may resell alcohol except as compounded into medicinal or other preparations that are not capable of ordinary use as a beverage.

Section 181. That § 35-4-74 be amended to read as follows:

35-4-74. No off-sale licensee may make any delivery of alcoholic beverages outside of the premises described in the license. A violation of this section is a Class 2 misdemeanor.

Section 182. That § 35-4-75 be amended to read as follows:

35-4-75. No on-sale licensee may serve alcoholic beverages except on the premises authorized by the license. A violation of this section is a Class 2 misdemeanor.

Section 183. That § 35-4-86 be amended to read as follows:

35-4-86. No person may possess any alcoholic beverage other than in a package upon which the required stamps are affixed. This section, however, does not apply to alcoholic beverages:

(1) In transit to or in possession of distiller or wholesale licensees;

(2) In possession of a person authorized to have possession as specified in § 35-4-66;

(3) Purchased outside the state by carrier licensees for service to patrons only;

(4) Seized by or in possession of any officer of this state or any political subdivision of the state pursuant to official duty;

(5) In transit to or stored with a bonded warehouse under the provisions of § 35-4-46;

(6) As to which, under § 35-5-6, no tax is required to be paid.

A violation of this section is a Class 2 misdemeanor.

Section 184. That § 35-4-100 be amended to read as follows:

35-4-100. The Department of Human Services shall create a nine inch by twelve inch sign to be displayed pursuant to § 35-4-99. The sign shall explain the dangers faced by pregnant women who consume alcohol. The language in the sign shall be approved by the secretary of health. The Department of Human Services shall provide a copy of the sign to each licensee required by § 35-4-99 to display the sign.

Section 185. That § 35-5-7 be amended to read as follows:

35-5-7. Any licensee liable for the payment of the occupational tax levied under this chapter may be required by the secretary to file with the secretary a bond or bonds, in an amount and form prescribed by the secretary, with corporate surety satisfactory to the secretary. The amount of the bond may not exceed fifty thousand dollars, and the secretary may require the increase or permit the decrease of the amount of the bond to a sum that the secretary deems necessary to assure payment of the tax. The bond or bonds shall run to the state and shall be conditioned on the payment of all

taxes levied by this chapter on or before the due date of payment, and on the payment of all fines and penalties lawfully imposed by reason of failure to pay any such taxes on the date payment is due. In lieu of a bond the secretary may allow the licensee to furnish the amount of the bond in cash or negotiable securities approved by the secretary.

Section 186. That § 35-5-7.1 be amended to read as follows:

35-5-7.1. The surety may cancel the bond required by § 35-5-7 as to future liability by giving thirty days' written notice to the department and the licensee. Unless the licensee gives other sufficient security by the end of the thirty-day period, the licensee's license shall be revoked.

Section 187. That § 35-5-12 be amended to read as follows:

35-5-12. The secretary shall adopt the design of the identification stamp and shall procure the manufacture of the stamp in such quantities as the secretary deems necessary.

Section 188. That § 35-5-14 be amended to read as follows:

35-5-14. Any person who makes, manufactures, counterfeits, duplicates, or in any way imitates any identification stamp provided for in this chapter or who possesses, transfers, utters, or delivers any imitation or counterfeits any identification stamp is guilty of forgery.

Section 189. That § 35-5-20 be amended to read as follows:

35-5-20. Any licensee liable for the payment of the occupational tax shall keep, in current and available form on the licensed premises, records of all purchases, sales, quantities on hand, and such other information as the secretary may prescribe by rule promulgated pursuant to chapter 1-26. The secretary may require from any licensee any reports the secretary prescribes, and the secretary may require the production of any book, record, document, invoice, and voucher kept, maintained, received, or issued by the licensee in connection with the licensee's business that, in the judgment of the secretary, may be necessary to administer and discharge the secretary's duties, to secure the maximum of revenue to be paid, and to carry out the provisions of law. A violation of this section

is a Class 1 misdemeanor.

If default is made, or if any such licensee fails or refuses to furnish any other reports or information referred to upon request for the reports or information, the secretary may enter the licensee's premises where the records are kept and make such examination as is necessary to compile the required report. The cost of the examination shall be paid by the licensee whose reports are in default.

Section 190. That § 35-5-20.2 be amended to read as follows:

35-5-20.2. The failure by any person to make a report as required by § 35-5-20.1 is sufficient cause for the secretary to revoke or suspend all licenses to solicitor licensees employed by the person, to terminate any permit issued to the person under § 35-4-46, and to notify all distiller, manufacturer, and wholesaler licensees to make no further purchases from the person until notified by the secretary that such purchases may be resumed.

Section 191. That § 35-8A-3 be amended to read as follows:

35-8A-3. Any supplier and any wholesaler may contract with one another to establish the terms and conditions of their distribution arrangement. If any supplier and any wholesaler have entered into a mutually binding written agreement, the provisions of this chapter do not apply and the relationship, rights, and obligations as between the parties shall be governed in all respects by the provisions of the mutually binding written agreement, if the provisions are reasonable, nondiscriminatory, and not unconscionable. However, no provision of a mutually binding written agreement that is determined to be unreasonable, discriminatory, and unconscionable is of any effect, and the provision is severable from any other provisions. Any specific provision in the agreement is invalid if the provision is more restrictive of the wholesaler's right than this chapter allows or if the provision lessens any obligation of the supplier as specified in this chapter; in that event the provisions of this chapter apply. A supplier may have a different agreement with different

wholesalers in different brands.

In the event of a dispute as to whether the relationship, rights, and obligations as between a supplier and a wholesaler are governed by a mutually binding written agreement or by this chapter, any court of competent jurisdiction in this State may determine the issue by declaratory judgment upon proper application to the court by either party to the dispute.

Section 192. That § 35-8A-6 be amended to read as follows:

35-8A-6. Upon providing the wholesaler notice by certified mail, a supplier may immediately terminate an agreement, cancel an agreement, fail to renew an agreement upon expiration of its term, or refuse to continue under an agreement if any of the following has occurred:

(1) The state or federal license of the wholesaler has been revoked or suspended for a period of more than thirty-one days;

(2) The wholesaler is insolvent, within the definition of that term contained in 11 U.S.C. § 101, as amended to January 1, 2008, and an order for relief under 11 U.S.C. ch. 7, as amended to January 1, 2008, has been entered with respect to the wholesaler, or there has been a liquidation or dissolution of the wholesaler that materially affects the wholesaler's ability to remain in business;

(3) The wholesaler or any individual who holds ten percent or more of the stock or other ownership interest of the wholesaler has been convicted of, or pleads guilty to, a felony that may in the reasonable judgment of the supplier materially and adversely affect the ability of the wholesaler to sell the supplier's products in the wholesaler's territory;

(4) The wholesaler has committed fraud in its dealings with the supplier or the supplier's products;

(5) The wholesaler has sold malt beverages supplied by the supplier to a retailer who the wholesaler knows, or reasonably should know, does not have a location within the

wholesaler's territory at which the retailer is entitled to resell malt beverages; or the wholesaler has sold malt beverages supplied by the supplier to any person the wholesaler knows or should know will sell or supply all or part of the malt beverages to any retail location that does not have a location within the wholesaler's territory at which the retailer is entitled to resell malt beverages;

(6) The wholesaler has failed to pay for products ordered and delivered in accordance with established terms with the supplier and has continued to fail to make payment within five business days after receipt of written notice of the delinquency and demand for immediate payment;

(7) The wholesaler has made a transfer of wholesaler's business without prior written notice to, and approval by, the supplier in accordance with this chapter;

(8) The wholesaler ceases to carry on business with respect to the brewer's products unless the failure to carry on business is due to force majeure and the wholesaler has not taken reasonable steps to overcome those events that constitute the force majeure or has been unable to carry on business for a period of more than five days; or

(9) The brewer and wholesaler agree to a termination.

Section 193. That § 35-10-8 be amended to read as follows:

35-10-8. Any cost penalty provided for by this title shall be included in the judgment of conviction and has all the force and effect of a judgment in a civil action. If the person against whom the cost penalty is assessed has furnished a bond as a licensee under this title, the surety is liable for the cost penalty. The cost penalty may be paid by the defendant to the clerk of the court that rendered the judgment in which the cost penalty was assessed. The payment shall operate as a satisfaction of the portion of the judgment relating to the cost penalty and shall be entered upon the judgment record accordingly. If not paid to the clerk, the judgment for the cost penalty shall be enforced by execution

or other process, the same as any civil judgment. The clerk or any officer collecting the cost penalty shall, without delay, transmit the cost penalty to the state treasurer with a statement giving full information as to the source of the cost penalty. The state treasurer shall issue a receipt for the cost penalty to the person transmitting the cost penalty.

Section 194. That § 35-10-9 be amended to read as follows:

35-10-9. If any licensed dealer in alcoholic beverages or the dealer's agent or employee is convicted of:

(1) A violation of any provision of this title, or any law or ordinance regulating the sale of alcoholic beverages; or

(2) Any violation of law or ordinance in the operation of the licensed premises,

the court or magistrate shall, within ten days after the conviction, mail a written notice of conviction to the auditor or finance officer of the municipality or the county auditor of the county having jurisdiction to approve alcoholic beverage licenses for the premises. A copy of the notice shall also be mailed to the Department of Revenue and Regulation.

Section 195. That § 35-10-10 be amended to read as follows:

35-10-10. If any alcoholic beverage is imported into this state or held in the possession of any person in this state without proper stamps in violation of the provisions of state law, the alcoholic beverage constitutes contraband goods and may be seized by the secretary or any law enforcement officer of the state. Any alcoholic beverage seized under the provisions of this section shall be confiscated and forfeited to the state. The actual owner of the contraband goods has such rights as defined, and the secretary may dispose of, sell, or destroy, the contraband goods in accordance with the provisions of §§ 35-10-11 to 35-10-16, inclusive. The proceeds of any such sale shall be placed in the general fund of the state.

Section 196. That § 35-10-11 be amended to read as follows:

35-10-11. Any alcoholic beverage used or possessed in violation of provisions of this title constitutes contraband goods, and is subject to confiscation as provided in this chapter. Any judgment of conviction of illegal use or possession against the person from whom the beverages were taken constitutes a confiscation of the beverages unless the beverages, within twenty days after the judgment, are claimed by some other person who establishes to the satisfaction of the court that the person is the true owner and had no participation in the illegal use or possession. If prosecution on any such charge terminates in a dismissal of the charge, any such beverages, if previously seized, shall be returned to the owner.

Section 197. That § 35-10-12 be amended to read as follows:

35-10-12. If there is no dismissal of prosecution or no judgment of conviction of illegal use or possession of alcoholic beverages, any officer seizing the beverages may apply to the court that issued the search warrant under which the beverages were seized, or if the beverages were not seized under a search warrant, to any court of record for the county where the beverages were seized, for an order determining whether the beverages were, in fact, possessed or used in violation of the provisions of this title. The court shall thereupon make an order fixing a time and place for hearing and providing for reasonable notice of the hearing to the person from whom the beverages were seized and to any probable claimant of the beverages. If the person or claimant is unknown, the notice may be by posting or publication as the court directs.

Section 198. That § 35-10-13 be amended to read as follows:

35-10-13. Upon hearing, the court shall determine whether alcoholic beverages seized were in fact used or possessed in violation of provisions of this title. If the court finds there was no such illegal use or possession, the court shall order the beverages returned to or held for the owner of the beverages. If the court determines that there was use or possession in violation of provisions of this title, the court shall adjudge the confiscation of the beverages.

Section 199. That § 35-10-14 be amended to read as follows:

35-10-14. Upon any adjudication in any form of confiscation of alcoholic beverages, the officer having custody of the beverages shall make a full report to the secretary of revenue setting forth the quantity, kind, and probable value of the beverages. If the beverages are of such character that the beverages cannot lawfully be sold, or are of insufficient value to justify an attempted sale, the secretary shall order the beverages destroyed. The officer in custody of the beverages shall comply with the order and shall report to the secretary that the order has been carried out.

Section 200. That § 35-10-15 be amended to read as follows:

35-10-15. If confiscated alcoholic beverages are lawfully salable, and of sufficient value to justify an attempted sale, the secretary of revenue shall take custody of the beverages, and may, pending sale, store the beverages at any convenient and safe place. All stamps provided by this title, except inspection stamps, shall be canceled and removed.

Section 201. That § 35-10-16 be amended to read as follows:

35-10-16. From time to time as confiscated alcoholic beverages accumulate in sufficient quantities, the secretary of revenue shall notify all licensed wholesalers as to kinds and types of such beverages in the secretary's custody for sale. The secretary shall receive bids, and sales shall be made on the basis of such bids as the secretary deems advantageous to the state. Any wholesaler purchasing the beverages shall, before resale of the beverages, affix to the package or bulk container all stamps, other than the inspection stamp, required by this title. All proceeds of any such sale by the secretary shall be deposited with the state treasurer and credited to the general fund.

Section 202. That § 35-10-18 be amended to read as follows:

35-10-18. If a person has knowledge or reason to believe that the person's structure, conveyance, or place is occupied or used for the manufacture, sale, bartering, giving away, keeping, consuming, or using of alcoholic beverages, contrary to the provisions of the laws of the state, and if the person

allows the structure, conveyance, or place to be so occupied or used, the structure, conveyance, or place is subject to a lien for and may be sold to pay all fines and costs assessed against the person guilty of such nuisance for such violation. Any such lien may be enforced by action in any court having jurisdiction.

Section 203. That § 35-10-19 be amended to read as follows:

35-10-19. An action to enjoin any nuisance, as defined in § 35-10-17, may be brought in the name of the State of South Dakota by the attorney general or by the state's attorney of the county in which the property constituting the nuisance is located. Any action to abate or to enjoin the nuisance may be commenced and conducted as other actions or proceedings for injunction. However, the complaint or affidavit used may be made on information and belief and no bond is required in instituting the proceedings or to secure the issuance of any such injunction.

Section 204. That § 35-10-20 be amended to read as follows:

35-10-20. An action pursuant to § 35-10-19 may be maintained in any court having jurisdiction over such an action. An injunction may be secured against the premises in which the nuisance exists and against any person, partnership, club, association, or corporation, either severally or jointly, who, as owner, tenant, agent, keeper, servant, employee, or manager of any place or premises where the nuisance is created, kept, or maintained, allows the nuisance to exist or continue in any place or on any premises owned, managed, controlled, or occupied by the person, partnership, club, association, or corporation.

Section 205. That § 35-10-22 be amended to read as follows:

35-10-22. It is not necessary in an action pursuant to § 35-10-19 for the court to find the property involved was being unlawfully used as described in § 35-10-17 at the time of the hearing. However, on finding that the material allegations of the petition are true, the court shall order that no alcoholic beverages may be manufactured, sold, bartered, or stored in the structure, conveyance, or place.

Upon judgment of the court ordering the nuisance to be abated, the court may order that the structure, conveyance, or place not be occupied or used for one year thereafter.

Section 206. That § 35-10-23 be amended to read as follows:

35-10-23. Notwithstanding § 35-10-22, the court may permit the structure, conveyance, or place to be occupied or used if the owner, lessee, tenant, or occupant of the structure, conveyance, or place gives bond with sufficient surety, to be approved by the court making the order, in the penal and liquidated sum of not less than five hundred dollars nor more than one thousand dollars. The bond shall be payable to the state and conditioned that alcoholic beverages may not thereafter be manufactured, sold, bartered, kept, or otherwise disposed of in or on the structure, conveyance, or place, and that the owner, lessee, tenant, or occupant will pay all fines, costs, and damages that may be assessed for any violation of law relating to alcoholic beverages upon the property.

Section 207. That § 35-10-26 be amended to read as follows:

35-10-26. The accused in any proceeding pursuant to § 35-10-25 may plead in the same manner as to an information or indictment, insofar as the same is applicable. Evidence may be oral or in the form of affidavits, or both. The court may require the defendant to answer interrogatories, either written or oral. The defendant need not necessarily be discharged upon the defendant's denial of the facts stated in the moving papers.

Section 208. That § 35-11-2 be amended to read as follows:

35-11-2. No social host who furnishes any alcoholic beverage is civilly liable to any injured person or injured person's estate for any injury suffered, including any action for wrongful death, or property damage suffered because of the intoxication of any person due to the consumption of the alcoholic beverage.

An Act to make form and style revisions to certain taxation and revenue statutes.

I certify that the attached Act originated in the

HOUSE as Bill No. 1007

_____
Chief Clerk

_____
Speaker of the House

Attest:

_____
Chief Clerk

_____
President of the Senate

Attest:

_____
Secretary of the Senate

House Bill No. 1007
File No. ____
Chapter No. _____

Received at this Executive Office this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor

The attached Act is hereby approved this _____ day of _____ , A.D., 20___

_____
Governor

STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____ , 20___
at _____ o'clock __ M.

_____
Secretary of State

By _____
Asst. Secretary of State