

State of South Dakota

EIGHTY-EIGHTH SESSION LEGISLATIVE ASSEMBLY, 2013

807U0600

SENATE BILL NO. 167

Introduced by: Senators Novstrup (Al), Brown, Kirkeby, and Lederman and Representatives Hoffman, Hansen, Kaiser, Munsterman, Tulson, Tyler, and Verchio

1 FOR AN ACT ENTITLED, An Act to require governmental bodies to keep minutes of
2 executive or closed sessions and to define what circumstances the minutes be viewed by the
3 public.

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

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

7 Each governmental body shall keep detailed minutes of all discussion, persons present, and
8 action occurring at an executive or closed session. The governmental body shall also audio
9 record all of the closed session. The detailed minutes and audio recording of a closed session
10 shall be sealed and are not considered public records open to public inspection. However, upon
11 order of the court in an action to enforce this chapter, the detailed minutes and audio recording
12 shall be unsealed and examined by the court in camera. The court shall then determine what
13 part, if any, of the minutes shall be disclosed to the party seeking enforcement of this chapter
14 for use in that enforcement proceeding. In determining whether any portion of the minutes or
15 recording shall be disclosed to such a party for this purpose, the court shall weigh the prejudicial



1 effects to the public interest of the disclosure of any portion of the minutes or recording in
2 question, against its probative value as evidence in an enforcement proceeding. After such a
3 determination, the court may permit inspection and use of all or portions of the detailed minutes
4 and audio recording by the party seeking enforcement of this chapter. A governmental body
5 shall keep the detailed minutes and audio recording of any closed session for a period of at least
6 one year from the date of that meeting.