

State of South Dakota

SEVENTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 1997

400A0783

SENATE ENGROSSED NO. **SB264** - 2/19/97

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

1 FOR AN ACT ENTITLED, An Act to limit any future creation of QUEST entities.

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

3 Section 1. That § 10-43-79 be repealed.

4 ~~—10-43-79. For the purposes of §§ 10-43-78 to 10-43-86, inclusive, the term, QUEST, means~~
5 ~~qualified economic stimulation.~~

6 Section 2. That § 10-43-80 be repealed.

7 ~~—10-43-80. For the purposes of §§ 10-43-78 to 10-43-86, inclusive, a financial institution is~~
8 ~~a financial institution as defined by § 10-43-1 or the holding company of any such financial~~
9 ~~institution.~~

10 Section 3. That § 10-43-81 be repealed.

11 ~~—10-43-81. For the purposes of §§ 10-43-78 to 10-43-86, inclusive, the term, QUEST entity,~~
12 ~~means a for-profit corporation which is a community development corporation which meets the~~
13 ~~requirements of §§ 51A-4-20.1 and 51A-4-20.2 and which is dedicated to the creation of primary~~
14 ~~jobs in the state.~~

15 Section 4. That § 10-43-82 be amended to read as follows:

16 10-43-82. Any for-profit corporation which seeks to be designated as a QUEST entity shall

1 supply the secretary of state with the necessary information to prove it meets the definition of
2 a QUEST entity as provided by § 10-43-81. Upon receipt of such information, the secretary shall
3 certify the corporation as a QUEST entity. The secretary may not certify any corporation as a
4 QUEST entity after the effective date of this Act.

5 Section 5. That § 10-43-83 be amended to read as follows:

6 10-43-83. Any financial institution that has invested in a QUEST entity certified pursuant to
7 § 10-43-82 shall receive a credit towards any tax due from a financial institution or a subsidiary
8 of a holding company of a financial institution pursuant to this chapter. To qualify for such a
9 credit the investment by the financial institution shall have occurred on or before December 31,
10 1993. The financial institution shall receive a credit equal to eighty percent of the first
11 twenty-five thousand dollars or less of total investments made in 1993. The financial institution
12 shall receive a credit equal to forty percent of that portion of the total investments made in 1993
13 which is from twenty-five thousand dollars up to and including seventy-five thousand dollars.
14 The financial institution shall receive a credit equal to twenty-five percent of that portion of the
15 total investments made in 1993 which is from seventy-five thousand dollars and up to and
16 including one hundred twenty-five thousand dollars. The financial institution shall receive a credit
17 equal to twenty percent of that portion of the total investments made in 1993 from one hundred
18 twenty-five thousand dollars up to and including two hundred thousand dollars. That portion of
19 total investments made in 1993 greater than two hundred thousand dollars does not qualify for
20 a tax credit pursuant to this section. This section is repealed effective January 1, 2003.

21 Section 6. That § 10-43-83.1 be amended to read as follows:

22 10-43-83.1. Any financial institution that has invested in a QUEST entity certified pursuant
23 to § 10-43-82 between January 1, 1994, and December 31, 1996, shall receive a credit towards
24 any tax due from a financial institution or a subsidiary of a holding company of a financial
25 institution pursuant to chapter 10-43. The financial institution shall receive a credit equal to thirty

1 percent of the institution's total investment, or a credit of one hundred fifty thousand dollars
2 whichever is the lesser. This section is repealed effective January 1, 2003.

3 Section 7. That § 10-43-84 be amended to read as follows:

4 10-43-84. For any investment made on or before March 31, 1993, a financial institution is
5 entitled to one hundred percent of the tax credit provided by § 10-43-83. For any investment
6 made on or before June 30, 1993, a financial institution is entitled to ninety-eight percent of the
7 tax credit. For any investment made on or before September 30, 1993, a financial institution is
8 entitled to ninety-six percent of the tax credit. For any investment made on or before
9 December 31, 1993, a financial institution is entitled to ninety-four percent of the tax credit. An
10 investment shall be deemed made when the QUEST entity accepts receipts of the financial
11 institution's investment. This section is repealed effective January 1, 2003.

12 Section 8. That § 10-43-85 be amended to read as follows:

13 10-43-85. Any tax credit received pursuant to §§ 10-43-83, 10-43-83.1 and 10-43-84 may
14 be used by a financial institution to off-set any tax owed by the financial institution pursuant to
15 this chapter over a period of six years from the time of investment. In the first year after an
16 investment is made no credit may be taken to off-set any tax owed. In the second year, a financial
17 institution may use ten percent of the total tax credits received to off-set any tax owed. In the
18 third year, a financial institution may use twenty percent of the total tax credits received to
19 off-set any tax owed. In the fourth year, a financial institution may use twenty percent of the total
20 tax credits received to off-set any tax owed. In the fifth year, a financial institution may use
21 twenty percent of the total tax credits received to off-set any tax owed. In the sixth year, a
22 financial institution may use thirty percent of the total tax credits received to off-set any tax
23 owed. Any tax credit which is unused in a particular year may be carried forward to any of the
24 next three years. This section is repealed effective January 1, 2003.

25 Section 9. That § 10-43-86 be amended to read as follows:

1 10-43-86. If a QUEST entity receives an investment from a financial institution, the QUEST
2 entity shall notify the Department of Revenue of the name of the financial institution, the amount
3 of the investment and such information the Department of Revenue may require to show proof
4 of the investment. The department shall compute the tax credit provided by §§ 10-43-83,
5 10-43-83.1 and 10-43-84. The department shall authorize and notify the financial institution of
6 any tax credit it may receive based on its total investments. No tax credit may be used to off-set
7 any tax owed pursuant to this chapter unless it has first been authorized by the department. This
8 section is repealed effective January 1, 2003.

9 Section 10. That § 10-43-87 be amended to read as follows:

10 10-43-87. No more than two million dollars of tax credits in the aggregate may be authorized
11 pursuant to §§ 10-43-86 and 10-39-66. The Department of Revenue shall monitor the total
12 amount of tax credits authorized and may not authorize any tax credit which would exceed this
13 two million dollar limit. The Department of Revenue may not authorize any tax credits pursuant
14 to §§ 10-43-86 and 10-39-66 after the effective date of this Act. This section is repealed effective
15 January 1, 2003.

16 Section 11. That § 10-39-61 be repealed.

17 ~~10-39-61. For the purposes of §§ 10-39-62 to 10-39-66, inclusive, the term, QUEST, means~~
18 ~~qualified economic stimulation.~~

19 Section 12. That § 10-39-62 be repealed.

20 ~~10-39-62. For the purposes of §§ 10-39-63 to 10-39-66, inclusive, the term, QUEST entity,~~
21 ~~means a for-profit corporation which is a community development corporation which meets the~~
22 ~~requirements of §§ 51A-4-20.1 and 51A-4-20.2 and which is dedicated to the creation of primary~~
23 ~~jobs in the state.~~

24 Section 13. That § 10-39-63 be repealed.

25 ~~10-39-63. Any for-profit corporation which seeks to be designated as a QUEST entity shall~~

1 supply the secretary of state with the necessary information to prove it meets the definition of
2 a QUEST entity as provided by § 10-39-62. Upon receipt of such information, the secretary of
3 state shall certify the corporation as a QUEST entity.

4 Section 14. That § 10-39-64 be repealed.

5 ~~— 10-39-64. Any person subject to the tax imposed by this chapter that has invested in a~~
6 ~~QUEST entity certified pursuant to § 10-39-63 shall receive a credit towards any tax due~~
7 ~~pursuant to chapter 10-39. The person shall receive a credit equal to thirty percent of the~~
8 ~~person's total investment, or a credit of one hundred fifty thousand dollars whichever is the~~
9 ~~lesser.~~

10 Section 15. That § 10-39-65 be repealed.

11 ~~— 10-39-65. Any tax credit received pursuant to § 10-39-64 may be used by a person subject~~
12 ~~to the tax imposed by this chapter to off-set any tax owed by the person over a period of six~~
13 ~~years from the time of investment. In the first year after an investment is made no credit may be~~
14 ~~taken to off-set any tax owed. In the second year, the person may use ten percent of the total tax~~
15 ~~credits received to off-set any tax owed. In the third year, the person may use twenty percent of~~
16 ~~the total tax credits received to off-set any tax owed. In the fourth year, the person may use~~
17 ~~twenty percent of the total tax credits received to off-set any tax owed. In the fifth year, the~~
18 ~~person may use twenty percent of the total tax credits received to off-set any tax owed. In the~~
19 ~~sixth year, the person may use thirty percent of the total tax credits received to off-set any tax~~
20 ~~owed. Any tax credit which is unused in a particular year may be carried forward to any of the~~
21 ~~next three years.~~

22 Section 16. That § 10-39-66 be repealed.

23 ~~— 10-39-66. If a QUEST entity receives an investment from a person subject to the tax imposed~~
24 ~~by this chapter, the QUEST entity shall notify the Department of Revenue of the name of the~~
25 ~~person, the amount of the investment and such information the Department of Revenue may~~

1 ~~require to show proof of the investment. The department shall compute the tax credit provided~~
2 ~~by § 10-39-64. The department shall authorize and notify the person of any tax credit it may~~
3 ~~receive based on its total investments. No tax credit may be used to off-set any tax owed~~
4 ~~pursuant to this chapter unless it has first been authorized by the department.~~

1 **BILL HISTORY**

2 2/4/97 First read in Senate and referred to State Affairs. S.J. 307

3 2/14/97 Scheduled for Committee hearing on this date.

4 2/14/97 State Affairs Do Pass, Passed, AYES 7, NAYS 1.

5 2/15/97 Deferred to another day. S.J. 480

6 2/18/97 Senate Do Pass, Failed, AYES 19, NAYS 15. S.J. 501

7 2/18/97 Intent to reconsider. S.J. 502

8 2/18/97 Motion to Amend. S.J. 502

9 2/18/97 Senate Do Pass Amended, Passed, AYES 19, NAYS 14. S.J. 503

10 2/18/97 Senate Title Amended. S.J. 503