

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

400E0271

HOUSE TRANSPORTATION COMMITTEE
ENGROSSED NO. **HB 1047** - 01/17/2001

Introduced by: The Committee on Transportation at the request of the Department of
Revenue

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding leased or rented boats,
2 to revise certain provisions regarding boat license tags, and to revise certain provisions
3 regarding the exemptions from the excise tax on boats.

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

5 Section 1. That chapter 32-3A be amended by adding thereto a NEW SECTION to read as
6 follows:

7 For the purposes of this chapter, any leasing or rental company that operates within the
8 principal place of business of a dealer, licensed pursuant to chapter 32-7B, is a business separate
9 from the dealership. A leasing or rental company shall title, license, and tax any leased or rental
10 boat in a name that is distinct and separate from that of the dealership name as indicated on the
11 dealer license under chapter 32-7B.

12 Section 2. That § 32-3A-7 be repealed.

13 ~~32-3A-7. The department shall issue boat license tags of a durable material to boat~~
14 ~~manufacturers and dealers upon application and payment of fifteen dollars for each set of boat~~

1 ~~license tags desired. Each set of boat license tags shall be valid until December thirty-one next~~
2 ~~following the date of issuance.~~

3 Section 3. That § 32-3A-8 be repealed.

4 ~~— 32-3A-8. Any new or used boat owned by a boat manufacturer or dealer bearing the~~
5 ~~manufacturer's or dealer's "BD" boat license tags issued pursuant to § 32-3A-7 may only be~~
6 ~~operated in this state by the boat manufacturer or dealer. The boat license tags shall be displayed~~
7 ~~as required by § 32-3A-5 and rules promulgated, pursuant to chapter 1-26, by the Department~~
8 ~~of Game, Fish and Parks Commission. The "BD" boat license tag may only be transferred by the~~
9 ~~boat manufacturer or dealer from one boat owned by the boat manufacturer or dealer to another~~
10 ~~boat owned by the same boat manufacturer or dealer. A violation of this section is a Class 1~~
11 ~~misdemeanor.~~

12 Section 4. That § 32-3A-9 be repealed.

13 ~~— 32-3A-9. Any new or used boat owned by a boat manufacturer or dealer, bearing valid~~
14 ~~manufacturer's or dealer's BD boat license tags, may be operated in this state by any prospective~~
15 ~~purchaser for a period not to exceed three days. No boat manufacturer or dealer may issue a~~
16 ~~manufacturer's or dealer's boat license tag to any boat for any other purpose. A violation of this~~
17 ~~section is a Class 1 misdemeanor.~~

18 Section 5. That § 32-3A-10 be repealed.

19 ~~— 32-3A-10. If a new or used boat is sold by a boat manufacturer or boat dealer, the boat~~
20 ~~manufacturer or boat dealer may provide a temporary tag permit to operate the boat in this state~~
21 ~~for thirty days after the date of sale of the boat or until the time the purchaser receives the~~
22 ~~licenses from the county treasurer, whichever occurs first. The temporary boat license tags shall~~
23 ~~be displayed as required by § 32-3A-5 and rules promulgated, pursuant to chapter 1-26, by the~~
24 ~~department. No dealer may use the permit upon any boat owned by the dealer or for any purpose~~

1 ~~other than for boats sold by the manufacturer or dealer. No person may renew the temporary~~
2 ~~thirty-day license permit nor change or alter the date or other information thereon. A violation~~
3 ~~of this section is a Class 1 misdemeanor.~~

4 Section 6. That § 32-7B-13 be amended to read as follows:

5 32-7B-13. If a boat is sold by a licensed dealer, the dealer may provide a temporary thirty-
6 day license permit which is a permit to operate the boat in this state for a period of thirty days
7 after the date of sale or until the time the purchaser receives the regular license decals from the
8 county treasurer, whichever occurs first. The temporary boat license tags shall be displayed as
9 required by § 32-3A-5 and any rule promulgated, pursuant to chapter 1-26, by the department.
10 No dealer may use the permit upon any boat owned by the dealer or for any purpose other than
11 for boats sold by the manufacturer or dealer. No person may renew the temporary thirty-day
12 license permit nor change or alter the date or other information thereon. A violation of this
13 section is a Class 1 misdemeanor.

14 Section 7. That § 32-7B-11 be amended to read as follows:

15 32-7B-11. Any new boat or used boat owned by a licensed dealer, bearing dealer license
16 plates issued pursuant to § 32-7B-10 may be operated in this state for any purpose, except no
17 dealer boat license plate may be used on any boat used for lease or rental. The license plate shall
18 be displayed on or carried in the boat. The license plate is transferable by the dealer from one
19 boat owned by the dealer to another boat owned by the dealer. Any violation of this section is
20 a Class 1 misdemeanor.

21 Section 8. That § 32-3A-52 be amended to read as follows:

22 32-3A-52. Exempt from the provisions of ~~this chapter~~ § 32-3A-50 are:

- 23 (1) Any large boat which is the property of the governmental units which are exempted
24 from motor vehicle registration fees by §§ 32-5-42 and 32-5-42.1;

- 1 (2) Any large boat acquired by inheritance ~~from or bequest of a decedent~~;
- 2 (3) Any large boat previously titled or licensed jointly in the names of two or more
3 persons and subsequently transferred without consideration to one or more of such
4 persons;
- 5 (4) Any large boat transferred without consideration between spouses, between a parent
6 and child, and between siblings;
- 7 (5) Any large boat transferred pursuant to any mergers or consolidations of corporations
8 or plans of reorganization by which substantially all of the assets of a corporation are
9 transferred if the large boat was previously titled, licensed, and registered in this state;
- 10 (6) Any large boat transferred by a subsidiary corporation to its parent corporation for
11 no or nominal consideration or in sole consideration of the cancellation or surrender
12 of the subsidiary's stock if the large boat was previously titled, licensed, and registered
13 in this state;
- 14 (7) Any large boat transferred between an individual and a corporation if the individual
15 and the owner of the majority of the capital stock of the corporation are one and the
16 same and if the large boat was previously titled and registered in this state;
- 17 (8) Any large boat transferred between a corporation and its stockholders or creditors if
18 to effectuate a dissolution of the corporation it is necessary to transfer the title from
19 the corporate entity to the stockholders or creditors and if the large boat was
20 previously titled and registered in this state;
- 21 (9) Any large boat transferred between an individual and limited or general partnership
22 if the individual and the owner of the majority interest in the partnership are one and
23 the same person and if the large boat was previously titled and registered in this state;
- 24 (10) Any large boat transferred to effect a sale of all or substantially all of the assets of the

- 1 business entity if the large boat was previously titled and registered in this state;
- 2 (11) Any large boat acquired by a secured party or lien holder in satisfaction of a debt;
- 3 (12) Any large boat sold or transferred which is eleven or more years old and which is sold
4 or transferred for one thousand five hundred dollars or less before trade-in;
- 5 (13) Any damaged large boat transferred to an insurance company in the settlement of an
6 insurance claim;
- 7 (14) Any large boat owned by a former resident of this state who returns to the state and
8 who had previously paid excise tax to this state on the large boat as evidenced within
9 the department's records or by submission of other acceptable proof of payment of
10 such tax;
- 11 (15) Between corporations, both subsidiary and nonsubsidiary, if the individuals who hold
12 a majority of stock in the first corporation also hold a majority of stock in the second
13 corporation; but these individuals need not hold the same ratio of stock in both
14 corporations provided the large boat was previously titled and registered in this state;
15 and
- 16 (16) Any large boat transferred by a trustor to his trustee or from a trustee to a beneficiary
17 of a trust.

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

400E0188

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1059** - 01/19/2001

Introduced by: The Committee on State Affairs at the request of the Department of Game,
Fish and Parks

1 FOR AN ACT ENTITLED, An Act to continue a surcharge on certain hunting licenses and to
2 continuously appropriate the money for certain purposes.

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

4 Section 1. That chapter 41-2 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 The Game, Fish and Parks Commission shall impose a surcharge in the amount of five dollars
7 on each classification of hunting licenses issued by the Department of Game, Fish and Parks with
8 the exception of resident predator/varmint licenses, migratory bird certification permits, youth
9 deer licenses, and youth small game licenses. Revenue from the surcharge shall be deposited in
10 a special fund known as the South Dakota sportsmen's access and landowner depredation fund,
11 which is hereby established. Money in the fund is continuously appropriated for the purposes of
12 this section. Fifty percent of the money in the fund shall be available to landowners pursuant to
13 procedures and amounts to be established in rules promulgated by the commission pursuant to
14 chapter 1-26 for purposes of providing hunting access on the landowners' land and for wildlife

1 depredation and damage management programs. Fifty percent of the money in the fund shall be
2 available for purposes of acquiring free public hunting access by lease agreement.

3 Section 2. This Act is effective on January 1, 2002.

4 Section 3. This Act is repealed on January 1, 2005.

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

400E0228

HOUSE ENGROSSED NO. **HB 1069** - 01/22/2001

Introduced by: The Committee on Education at the request of the Department of
Education and Cultural Affairs

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to school consolidation.

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

3 Section 1. That § 13-13-1.6 be amended to read as follows:

4 13-13-1.6. If two or more school districts consolidate and at least one of those district's
5 calculated state aid pursuant to this chapter was zero dollars in the fiscal year immediately
6 preceding the fiscal year in which the consolidation takes effect, for a period of four years after
7 consolidation, the newly formed district ~~may opt to~~ shall have its state aid calculated based on
8 the school districts as they existed prior to consolidation. In years two to four, inclusive, after
9 the consolidation of two or more school districts, the adjusted average daily memberships and
10 the local efforts of the former districts ~~may~~ shall be based upon a pro-rata share of the adjusted
11 average daily membership and local effort of the newly formed district as compared to the
12 adjusted average daily memberships and the local efforts of the former districts in the first year.
13 ~~Any district that opts to benefit from this section shall notify the secretary of the Department of~~
14 ~~Education and Cultural Affairs of its intent to do so as part of its reorganization plan. A district~~
15 ~~that benefits from this section may not benefit from § 13-13-10.1 or 13-13-1.5 simultaneously,~~

1 ~~or in future years.~~

2 Section 2. That § 13-13-1.7 be amended to read as follows:

3 13-13-1.7. In years five to eight, inclusive, after the consolidation of two or more school
4 districts ~~that opted to benefit from § 13-13-1.6~~, state aid shall be calculated as follows:

5 (1) Calculate state aid pursuant to § 13-13-73;

6 (2) Notwithstanding the four-year time limit, calculate state aid pursuant to § 13-13-1.6;

7 (3) Subtract the results of subdivision (1) from the results of subdivision (2);

8 (4) Multiply the results of subdivision (3) by eighty percent in the fifth year, sixty percent
9 in the sixth year, forty percent in the seventh year, and twenty percent in the eighth
10 year;

11 (5) Add the results of subdivision (1) and the results of subdivision (4).

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

376E0045 **SENATE AGRICULTURE AND NATURAL RESOURCES**
COMMITTEE ENGROSSED NO. SB 11 - 02/01/2001

Introduced by: Senators Symens, Diedtrich (Elmer), and Vitter and Representatives
Hanson (Gary), Fryslie, and Lintz at the request of the Interim Agriculture
and Natural Resources Committee

1 FOR AN ACT ENTITLED, An Act to permit the fencing of certain lakes, ponds, and sloughs
2 for the containment of livestock.

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

4 Section 1. That chapter 43-17 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Any landowner or lessee, who confines or pastures livestock, annually or seasonally, may
7 construct and maintain a fence appropriate to the containment of such livestock across or
8 through any lake, pond, slough, or similar natural body of water if the landowner owns, or the
9 lessee leases, the inundated land in which the fence is set or over which the fence floats or is
10 suspended. The fence may not limit the free navigation of any navigable watercourse or limit the
11 right of the public to the enjoyment of the entire lake. At the request of any person, unit of local
12 government, or political subdivision of the state, any contest pertaining to the restrictions set
13 forth in this section may be brought to the Water Management Board for resolution consistent
14 with the process established in § 46-5-1.1. This section does not apply to meandered lakes, lakes

1 where an ordinary high water mark has been established pursuant to § 43-17-21, or any lake that
2 has a history of public use and access.

3 Section 2. That chapter 43-17 be amended by adding thereto a NEW SECTION to read as
4 follows:

5 The liability provisions related to landowners, tenants, or lessees in §§ 20-9-11 and 20-9-16
6 apply to any landowner, tenant, or lessee that constructs a fence in accordance with section 1 of
7 this Act.

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

118E0278

SENATE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **SB 124** - 01/31/2001

Introduced by: Senators Everist, Apa, Brown (Arnold), Dennert, Diedrich (Larry),
Diedrich (Elmer), Hutmacher, Koetzle, McCracken, McIntyre, Moore,
Munson, Olson (Ed), Sutton (Dan), and Symens and Representatives
Richter, Broderick, Brown (Richard), Davis, Duniphan, Elliott, Flowers,
Hennies (Thomas), Holbeck, Jaspers, Juhnke, Kooistra, Madsen, Michels,
Murschel, Olson (Mel), Smidt, and Teupel

1 FOR AN ACT ENTITLED, An Act to allow for the deposit of certain funds and for the
2 repayment of certain contracts relating to energy savings.

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

4 Section 1. If a school district enters into an energy savings contract pursuant to
5 chapter 1-33B, the school district may deposit the proceeds from any loan related to the energy
6 savings contract into its general fund or its capital outlay fund. The school district may deposit
7 money resulting from energy savings pursuant to an energy savings contract into its general fund
8 or its capital outlay fund. The school district may repay the loan pursuant to an energy savings
9 contract out of money in its general fund or its capital outlay fund.

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

770E0577

SENATE TRANSPORTATION COMMITTEE

ENGROSSED NO. **SB 137** - 02/01/2001

Introduced by: Senators Diedtrich (Elmer) and Dennert and Representatives Sutton
(Duane) and Frost

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the delivery of the
2 certificate of title upon the sale of a secondhand vehicle.

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

4 Section 1. That § 32-3-7 be amended to read as follows:

5 32-3-7. ~~Every~~ Any person, firm, or corporation, upon the sale and delivery of any used or
6 secondhand motor vehicle, shall within thirty days thereof deliver to the purchaser a certificate
7 of title, endorsed according to law, and issued for the vehicle by the department. However,
8 notwithstanding any other provision of law, if the purchaser defaults on the terms of the sale
9 within the thirty-day period, the seller does not have to deliver the certificate of title to the
10 purchaser. The seller shall notify the department in writing of the seller's refusal to deliver title
11 to the purchaser within fourteen days of the purchaser's default on the terms of the sale. A
12 violation of this section is a Class 2 misdemeanor.

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

772E0516

SENATE TAXATION COMMITTEE ENGROSSED NO.

SB 140 - 01/31/2001

Introduced by: Senators Sutton (Dan), Diedrich (Larry), and Koskan and Representatives Lange, Flowers, Hargens, Kloucek, and Konold

1 FOR AN ACT ENTITLED, An Act to clarify certain provisions relating to the payment of taxes
2 to municipalities from the revenues of electric cooperatives providing service within a
3 municipality.

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

5 Section 1. That § 49-34A-45 be amended to read as follows:

6 49-34A-45. A rural electric cooperative serving less than a majority of customers in a
7 municipality not having a municipally owned system, ~~shall~~ may, at the option of the municipality,
8 pay in addition to other taxes provided by law, an amount each and every year equal to two
9 percent of the total gross revenues received by the cooperative for that year from the sale of
10 power distributed to structures and electric service outlets situated within the municipality.

11 Section 2. That § 49-34A-46 be amended to read as follows:

12 49-34A-46. Any electric utility with facilities within the boundaries of a municipality, as they
13 exist from time to time, which has a municipally owned electric system serving over fifty percent
14 of the customers in ~~said~~ the municipality, shall may, at the option of the municipality, pay to the

1 municipality an amount to be agreed upon by the electric supplier and the governing body of the
2 municipality. If the parties have not agreed on the amount on or before May first following the
3 calendar year from which the amount is to be paid, the amount to be paid shall be four percent
4 of the total gross revenue collected by the electric supplier from the sale of power delivered to
5 structures and electric service outlets situated within the municipality during the year for which
6 the amount is paid.

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

352E0358

SENATE EDUCATION COMMITTEE ENGROSSED NO.

SB 145 - 02/01/2001

Introduced by: Senators Brosz, Ham, McCracken, and Olson (Ed) and Representatives
Holbeck, Garnos, Solum, and Wick

1 FOR AN ACT ENTITLED, An Act to revise residency for the purposes of special education and
2 to revise the distribution of state aid to special education.

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

4 Section 1. That § 13-28-9.1 be amended to read as follows:

5 13-28-9.1. A child in need of special education or special education and related services
6 assigned to and enrolled in an approved out of district special education residential or tuition day
7 special education program by an individualized education program team has school residence in
8 the school district ~~of the school board~~ making the assignment. The residency of ~~the assigned a~~
9 child assigned to an approved out of district special education residential or tuition day program
10 may not change for the duration of the school fiscal year in which the child is enrolled, unless the
11 child ceases to be an enrolled member in the special education program until the end of the fiscal
12 year or until the parent or guardian enrolls the child in another school district, and that school
13 district provides special education services to the child.

14 Section 2. That chapter 13-37 be amended by adding thereto a NEW SECTION to read as

1 follows:

2 If the parents or guardian of a child assigned to and enrolled in an out of district special
3 education residential or tuition day program move to another South Dakota school district and
4 that school district provides special education services to the child, the Department of Education
5 and Cultural Affairs shall allocate any state aid to special education attributable to the child
6 received or scheduled to be received by the resident school district as defined by § 13-28-9.1 to
7 the school district to which the parents or guardian have moved for the period of time that the
8 resident school district is not providing special education services to the child. For the purposes
9 of this Act, an approved special education program includes out-of-district residential programs
10 and tuition day programs.

11 Section 3. The Department of Education and Cultural Affairs may promulgate rules pursuant
12 to Chapter 1-26 to provide for the reallocation of state aid to special education as provided for
13 in this Act.

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

400E0723

SENATE COMMERCE COMMITTEE ENGROSSED NO.

SB 161 - 02/01/2001

Introduced by: Senators Diedrich (Larry), Brosz, Brown (Arnold), Diedrich (Elmer),
Madden, and Putnam and Representatives Jaspers, Juhnke, Michels, and
Van Gerpen

1 FOR AN ACT ENTITLED, An Act to regulate petroleum products containing methyl tertiary
2 butyl ether.

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

4 Section 1. That chapter 37-2 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 No person may sell, offer for sale, or store petroleum products containing or treated with
7 methyl tertiary butyl ether. The provisions of this section do not apply if the presence of methyl
8 tertiary butyl ether in a petroleum product is caused solely by incidental commingling of methyl
9 tertiary butyl ether with the petroleum product during storage or transfer of the petroleum
10 product and the concentration of methyl tertiary butyl ether in the petroleum product does not
11 exceed one-half of one percent by volume. In no event may the provisions of this section be
12 construed to permit the knowing or willful addition of methyl tertiary butyl ether to any
13 petroleum product.

14 Section 2. That § 37-2-32 be repealed.

1 ~~37-2-32. No retailer may offer for sale any petroleum product containing more than two~~
2 ~~percent of methyl tertiary butyl ether by volume.~~

3 Section 3. That § 37-2-16 be amended to read as follows:

4 37-2-16. A violation of any provision in §§ 37-2-5 to 37-2-24, inclusive, and § ~~37-2-32~~
5 section 1 of this Act is a Class 2 misdemeanor.

6 Section 4. That § 37-2-30 be amended to read as follows:

7 37-2-30. Any gasoline kept, offered, or exposed for sale, or sold, at retail containing two
8 percent or more by volume of any oxygenate or combination of oxygenates shall be identified
9 as "with" or "contains" the specific type of oxygenate or combination of oxygenates in the
10 gasoline. For example, the label may read "contains ethanol" ~~or "with MTBE/ETBE."~~. This
11 information shall be posted on the upper fifty percent of the dispenser front panel in a position
12 clear and conspicuous from the driver's position in a type at least one inch in height and a width
13 of type of at least one-sixteenth inch stroke.

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

717E0623

SENATE COMMERCE COMMITTEE ENGROSSED NO.

SB 162 - 02/01/2001

Introduced by: Senators Diedrich (Larry), Brosz, Brown (Arnold), Daugaard, Vitter, and Whiting and Representatives Pitts, Begalka, Brown (Richard), Clark, Fryslie, Hanson (Gary), Hargens, Holbeck, Jensen, Lintz, and Murschel

1 FOR AN ACT ENTITLED, An Act to permit farm wineries to hold an off-sale package wine
2 license.

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

4 Section 1. That § 35-4-2 be amended to read as follows:

5 35-4-2. Classes of licenses, with the fee of each class, follow:

6 (1) Distillers ---- four thousand dollars. However, no license fee is required for
7 manufacturers of alcohol for use in industry as a nonbeverage. If such manufacturer
8 of industrial alcohol shall at any time manufacture, produce, distill, sell, barter, or
9 dispose of alcohol for any use other than an industrial use, the license fee required by
10 this section shall be allocated to and payable for the portion of the year the
11 manufacturer devoted to such other use for each calendar month or fraction thereof
12 while so engaged, but in no case less than one-twelfth of said license fee;

13 (2) Wholesalers of alcoholic beverages ---- five thousand dollars;

14 (3) Off-sale ---- not to exceed five hundred dollars in municipalities of the first class, four

1 hundred dollars in municipalities of the second class, and three hundred dollars in
2 municipalities of the third class;

3 (4) On-sale ---- in municipalities of various classes: municipalities of the first class, not
4 less than one dollar for each person residing within the municipality as measured by
5 the last preceding federal census, the renewal fee for such license is fifteen hundred
6 dollars; municipalities of the second class, no more than twelve hundred dollars;
7 municipalities of the third class, no more than nine hundred dollars;

8 (5) Off-sale licenses issued to municipalities under local option ---- two hundred fifty
9 dollars;

10 (6) On-sale licenses issued outside municipalities ---- except as provided in § 35-4-11.9,
11 not less than the maximum that the municipality to which the applicant is nearest is
12 charging for a like license in that municipality, the renewal fee shall be the same as is
13 charged for a like license in the nearest municipality. However, if the nearest
14 municipality is more than fifteen miles from the on-sale license, the fee shall be
15 established pursuant to § 35-4-11.10. If the municipality to which the applicant is
16 nearest holds an on-sale license, pursuant to § 35-3-13 and does not charge a
17 specified fee, then the fee shall be the maximum amount that could be charged as if
18 the municipality had not been authorized to obtain on-sale licenses pursuant to
19 § 35-3-13. However, if the nearest municipality is a municipality of the first class and
20 is authorized to hold an on-sale license pursuant to § 35-3-13, such fee may not be
21 more than one hundred fifty percent of the minimum a municipality not so authorized
22 may charge for a like license. The renewal fee shall be the same as could be charged
23 for a like license in the nearest municipality;

24 (7) Solicitors ---- twenty-five dollars;

- 1 (8) Transportation companies ---- twenty-five dollars;
- 2 (9) Carrier ---- one hundred dollars, which fee shall entitle the licensee to sell or serve
3 alcoholic beverages on all conveyances they operate within the state;
- 4 (10) Dispensers ---- ten dollars;
- 5 (11) On-sale dealers at publicly operated airports ---- two hundred fifty dollars;
- 6 (12) On-sale dealers in wine for Sunday ---- five hundred dollars;
- 7 (13) Convention facility on-sale ---- not less than one dollar for each person residing within
8 the municipality as measured by the last preceding federal census, the renewal fee for
9 such license, in municipalities of the first class, is fifteen hundred dollars; the renewal
10 fee for such license, in municipalities of the second class, is no more than twelve
11 hundred dollars; the renewal fee for such license, in municipalities of the third class,
12 is no more than nine hundred dollars;
- 13 (14) Manufacturers of malt beverages ---- five hundred dollars;
- 14 (15) Wholesalers of malt beverages ---- four hundred dollars;
- 15 (16) Malt beverage retailers, being both package dealers and on-sale dealers ---- two
16 hundred fifty dollars;
- 17 (17) Malt beverage package dealers ---- one hundred fifty dollars; ~~and~~
- 18 (18) On-sale dealers in light wine containing not more than six percent alcohol by weight
19 for each day of the week between the hours of seven o'clock a.m. and two o'clock
20 a.m. to nonprofit corporations established pursuant to chapter 7-27 ---- two hundred
21 dollars; and
- 22 (19) Off-sale package wine dealers in table wines, sparkling wines, and sacramental wine
23 to be operated in conjunction with a farm winery established pursuant to chapter 35-
24 12 ---- one hundred fifty dollars.

1 Section 2. That § 35-4-6 be amended to read as follows:

2 35-4-6. Except as provided in subdivisions 35-4-2(16)~~and~~, (17), and (19), off-sale licenses
3 ~~shall~~ may be issued under this chapter only to operate within ~~municipalities~~ a municipality.

4 Section 3. That § 35-4-11.1 be amended to read as follows:

5 35-4-11.1. If not previously fixed by ordinance or continuing resolution, the board of county
6 commissioners shall on or before the first of September in each year determine the number of
7 on-sale licenses it will approve for the ensuing calendar year and the fees to be charged for the
8 various classifications of licenses. The number of licenses issued may not exceed three for the
9 first one thousand of population and may not exceed one for each additional fifteen hundred of
10 population or fraction thereof, the population to include only those residing within the county
11 but outside the incorporated municipalities and improvement districts, created pursuant to
12 chapter 7-25A, within the county. However, any license issued in an improvement district prior
13 to July 1, 2000, shall be included when calculating the total number of licenses that may be issued
14 by the county where the improvement district is located. No licensee regularly licensed to do
15 business on July 1, 1981, may be denied reissuance of a license in subsequent years solely by
16 reason of any limitations, based upon population quotas, of the number of licenses authorized
17 or established under the provisions of this title. Licenses issued to concessionaires, and lessees
18 of the State of South Dakota, within the boundaries of state parks, prior to January 1, 1983, may
19 be subtracted when calculating the total number of licenses permitted in this section. The quotas
20 established in this section do not apply to licenses issued pursuant to subdivisions 35-4-2(16)
21 ~~and~~, (17), and (19).

22 Section 4. That § 35-4-81.1 be amended to read as follows:

23 35-4-81.1. No off-sale licensee, licensed under subdivisions 35-4-2(3)~~and~~, (5), and (19), may
24 sell, or allow to be sold, alcoholic beverages between the hours of twelve o'clock p.m. midnight

1 and seven o'clock a.m. of the following day, or sell, or allow to be sold, distilled spirits or wine
2 on Memorial Day or Christmas Day. In addition, no off-sale licensee may sell, or allow to be
3 sold, alcoholic beverages on Sunday unless the municipality or the county by ordinance allows
4 such sales on Sunday.

5 Section 5. That chapter 35-12 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 The holder of a farm winery license may also hold on the premises where the wine is
8 produced, an off-sale license issued pursuant to subdivision 35-4-2(19).

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

355E0503

SENATE COMMERCE COMMITTEE ENGROSSED NO.

SB 201 - 02/01/2001

Introduced by: Senators Everist, Bogue, Daugaard, McCracken, Munson, Sutton (Dan),
Volesky, and Whiting and Representatives Brown (Richard), Brown
(Jarvis), Davis, Gillespie, Glenski, Konold, Madsen, Pederson (Gordon),
and Solum

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the exemption of
2 charitable gift annuities from insurance regulation.

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

4 Section 1. That § 58-1-16 be amended to read as follows:

5 58-1-16. No provision of Title 58 applies to any qualified organization which issues a
6 charitable gift annuity within this state if the qualified organization has operated for a period of
7 ~~five~~ ten years and has a minimum of five hundred thousand dollars in unrestricted cash, cash
8 equivalents, or publicly traded securities, exclusive of the assets funding the annuity agreement
9 as of the date of the annuity agreement. For the purposes of this section, a charitable gift annuity
10 means a giving plan or method by which a gift of cash or other property is made to a qualified
11 organization in exchange for its agreement to pay an annuity. For the purposes of this section,
12 a qualified organization means an organization which is either domiciled in South Dakota; and
13 has its principal place of business in South Dakota or is qualified to do business in South Dakota

1 as a foreign corporation, and which is exempt from taxation under Section 501(c)(3) of the
2 Internal Revenue Code as a charitable organization and regularly files a copy of Federal Form
3 990 in the Office of the Attorney General or is exempt from taxation under Section 501(c)(3)
4 of the Internal Revenue Code as a religious organization or is exempt as a publicly owned or
5 nonprofit, privately endowed educational institution approved, accredited, or licensed by the
6 state board of education, the north central association of colleges and schools, or an equivalent
7 public authority of the jurisdiction where the institution is located.

8 Section 2. That chapter 58-1 be amended by adding thereto a NEW SECTION to read as
9 follows:

10 The provisions of this Act do not apply to any qualified organization that met the
11 requirements of § 58-1-16 and issued any charitable gift annuity prior to July 1, 2001.

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

357E0739

SENATE COMMERCE COMMITTEE ENGROSSED NO.

SB 217 - 02/01/2001

Introduced by: Senator Daugaard and Representative Brown (Richard)

1 FOR AN ACT ENTITLED, An Act to revise the provisions for residential bid preference.

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

3 Section 1. That § 5-19-3 be amended to read as follows:

4 5-19-3. ~~When~~ If a contract is let by the state, a department thereof, any county, municipality,
5 school district, or other public corporation of the state for the erection, construction, alteration,
6 or repair of any public building, other structure, or addition thereto, or for any public work or
7 improvement or for the purchase of any goods, merchandise, supplies, or equipment of any
8 character, the contract shall be let to the lowest responsible bidder. However, a resident bidder
9 shall be allowed a preference on a contract against the bid of any bidder from any other state of
10 the United States or any state or province of any foreign country which enforces or has a
11 preference for resident bidders. The amount of the preference given to the resident bidder shall
12 be equal to the preference in the other state or province.

13 Section 2. That chapter 5-19 be amended by adding thereto a NEW SECTION to read as
14 follows:

15 In complying with the requirements of § 5-19-3 regarding a bidder from another country, the

1 state, any department thereof, any county, municipality, school district, or other public
2 corporation may rely on an affidavit submitted with the bid stating the bidder's home country,
3 state, or province does not enforce a preference for resident bidders, or if the bidder's home
4 country, state, or province does enforce a preference for resident bidders, stating the nature and
5 extent of that preference.

6 Section 3. That chapter 5-19 be amended by adding thereto a NEW SECTION to read as
7 follows:

8 If a bidder submits an affidavit that falsely states that the bidder's home country, state, or
9 province does not enforce a preference for resident bidders or that any preference is less than it
10 actually is and if the false affidavit results in the bidder being awarded the contract, the bidder
11 shall be penalized. The bidder's penalty is the lessor of ten percent of its contract or the amount
12 of the preference enforced by its home country, state, or province. In addition to this monetary
13 penalty, the contracting public corporation may cancel the bidder's contract. Nothing in this
14 section may be deemed to impose on the state, any department thereof, any county, municipality,
15 school district, or other public corporation a duty to determine for itself the veracity of any
16 affidavit regarding preferences submitted by a bidder.