2023 SESSION LAWS

OF THE

STATE OF SOUTH DAKOTA

PASSED BY THE NINETY-EIGHTH SESSION OF THE LEGISLATIVE ASSEMBLY, BEGUN AND HELD IN PIERRE ON JANUARY 10, 2023, AND CONCLUDED ON MARCH 27, 2023.

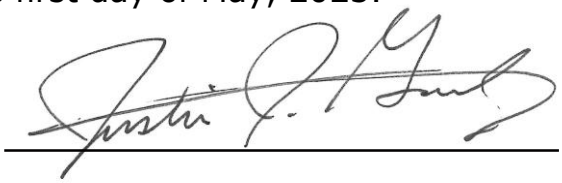
OFFICIAL EDITION

AUTHENTICATION

STATE OF SOUTH DAKOTA,)
) SS
HUGHES COUNTY)

I, Justin J. Goetz, Code Counsel of the State of South Dakota, do hereby certify that the enactments contained in this volume are, with the exception of clerical errors, true and correct copies of the enacted bills and the joint resolution passed by the Legislature of the State of South Dakota at the Ninety-Eighth Session thereof, with overstrikes and underscores added to show the effects on existing state law. Additionally, this volume contains true and correct copies, with the exception of clerical errors, of the South Dakota Supreme Court's rules and the voter-approved initiated Constitutional Amendment D, including overstrikes and underscores, which have been filed in my office since publication of the 2022 Session Laws of the State of South Dakota.

Signed this first day of May, 2023.



Justin J. Goetz
South Dakota Code Counsel

TABLE OF CONTENTS

The effective date of most of the legislation in this volume is July 1, 2023. See SDCL 2-14-16. Legislation with other effective dates will contain the effective date as one of its provisions.

UNCODIFIED ACTS

1. CA D Constitutional Amendment D.

JOINT RESOLUTIONS

2. SJR 505 Proposing and submitting to the electors at the next general election an amendment to the Constitution of the State of South Dakota, updating references to certain officeholders and persons.

STATE AFFAIRS AND GOVERNMENT

3. HB 1175 update references to the Governor, lieutenant governor, and other persons.
4. SB 179 revise provisions related to the South Dakota Science and Technology Authority.
5. SB 162 revise public meeting requirements.
6. SB 53 exempt records regarding jail inmate disciplinary matters from public inspection and copying.
7. SB 10 expand certification options for interpreters for the deaf.

LEGISLATURE AND STATUTES

8. SB 113 establish and modify provisions related to initiated petitions.
9. SB 46 enhance the penalty for petition circulation perjury.
10. SB 69 modify the composition of the State-Tribal Relations Committee.
11. HB 1003 repeal provisions requiring prison or jail cost estimates and to declare an emergency.
12. HB 1002 update the official code of laws.

PUBLIC OFFICERS AND EMPLOYEES

13. HB 1153 update travel expenses, moving expenses, and other reimbursements.
14. HB 1009 update and clarify certain provisions relating to the South Dakota Retirement System.
15. HB 1007 add emergency medical services personnel to Class B public safety membership of the South Dakota Retirement System.
16. HB 1008 revise provisions relating to actuarial terminology used by the South Dakota Retirement System.

PUBLIC PROPERTY, PURCHASES AND CONTRACTS

17. HB 1060 modify provisions related to procurement for the state and other purchasing agencies.
18. SB 189 prohibit purchasing agencies from contracting with companies owned or controlled by certain foreign entities or governments.

LOCAL GOVERNMENT GENERALLY

19. HB 1239 prohibit a ban of fuel gas appliances used by consumers.
20. SB 174 prohibit the enactment or implementation of an ordinance, resolution, or policy that prohibits the use of an energy utility service.

COUNTIES

21. SB 56 revise requirements to relocate a county seat.
22. HB 1057 allow for the appointment of county coroner by all counties.

TOWNSHIPS

23. HB 1147 provide for the organization of townships or fractions of townships.
24. HB 1148 clarify registration and residence requirements for voting at a township meeting.

MUNICIPAL GOVERNMENT

25. SB 88 amend a provision allowing municipalities to jointly license and regulate intercity services.

TAXATION

26. SB 29 revise certain references to the Internal Revenue Code.
27. SB 120 increase an amount of property value owned by a local industrial development corporation that is exempt from taxation.
28. SB 132 revise the appointment of legislators to the Agricultural Land Assessment Implementation and Oversight Advisory Task Force.
29. SB 26 transfer a property tax relief program, to change income requirements for certain property tax relief programs, and to index certain income schedules to inflation.
30. SB 24 revise property tax levies for school districts and to revise the state aid to general and special education formulas.
31. HB 1034 modify tax refunds for elderly persons and persons with a disability, to make an appropriation therefor, and to declare an emergency.
32. HB 1137 reduce certain gross receipts tax rates and a use tax rate, and to repeal a conditional reduction of certain gross receipts tax rates.
33. SB 147 change provisions regarding the appointment of legislators to represent South Dakota in the Streamlined Sales and Use Tax Agreement.
34. SB 71 authorize other fuel taxes to be included in the state's International Fuel Tax Agreement collections.
35. SB 73 exclude township-owned self-propelled machinery, equipment, and vehicles from fuel excise tax.
36. SB 58 clarify that the special amusement excise tax applies to the sale of amusement devices.
37. HB 1033 provide for the uniform administration of tobacco products taxes.
38. SB 30 revise the criteria for remote sellers who must remit sales tax.

PLANNING, ZONING AND HOUSING PROGRAMS

39. HB 1029 revise certain provisions regarding the county zoning and appeals process.
40. SB 188 add a provision regarding the use of a designated refrigerant.
41. SB 41 establish a program for housing infrastructure loans and grants, make an appropriation therefor, and to declare an emergency.

ELECTIONS

42. SB 139 revise residency requirements for the purposes of voter registration.
43. SB 55 prohibit ranked-choice voting.
44. SB 140 revise certain provisions relating to voter registration.
45. SB 86 require candidates for party precinct committeeman or committeewoman to include an email address and phone number in the written statement submitted to the county auditor.
46. HB 1112 modify provisions for a statewide runoff election.
47. SB 102 require the continued maintenance of the official list of candidates prior to an election.
48. HB 1140 require the secretary of state to determine if a legislatively proposed constitutional amendment complies with the single subject requirement and is not a constitutional revision.
49. HB 1124 modify provisions pertaining to the testing of automatic tabulating equipment.
50. SB 160 establish post-election audits.
51. HB 1165 modify certain provisions pertaining to absentee voting.
52. HB 1114 revise the qualifications to be a member of a county recount board.
53. HB 1062 clarify the convening of recount boards for primary elections.
54. SB 207 provide a penalty for the expenditure of public funds to influence the outcome of an election.

EDUCATION

55. HB 1123 authorize school boards to modify the length of terms for members to allow for holding joint elections.
56. HB 1191 clarify the duties of truancy officers.
57. SB 182 establish a uniform method for calculating high school credit received from completing postsecondary courses.
58. SB 168 authorize a board of a school district to adopt policies regarding students who are registered sex offenders, and to declare an emergency.
59. HB 1056 modify the limit of consecutive terms for members of the Board of Technical Education.
60. SB 118 expand eligibility for certain teachers who receive reduced tuition at Board of Regents institutions.
61. HB 1055 increase the dollar amount of South Dakota opportunity scholarships.
62. SB 37 revise provisions pertaining to the South Dakota School for the Deaf.
63. HB 1004 update a reference to the Internal Revenue Code for purposes of higher education savings plans.

COURTS AND JUDICIARY

64. SB 89 increase the daily maximum award for the alternative care program administered by the Unified Judicial System.

JUDICIAL REMEDIES

65. HB 1090 modify protections for agricultural operations from nuisance claims.
66. HB 1108 revise provisions related to abandoned mobile or manufactured homes.

CRIMES

67. SB 48 enhance the penalty for attempted first degree murder of a law enforcement officer.
68. SB 50 revise the crime of witness tampering.
69. HB 1220 provide that a female who undergoes an unlawful abortion may not be held criminally liable.
70. SB 91 revise certain provisions regarding the crime of rape and provide a penalty therefor.
71. SB 90 provide certain definitions related to the crime of rape.
72. SB 176 modify certain requirements for removal from the sex offender registry.
73. HB 1041 provide an exception to the definition of drug paraphernalia.

LAW ENFORCEMENT

74. SB 98 identify the means of conducting a criminal background check for the renewal of a gold card or an enhanced permit to carry a concealed pistol.
75. HB 1071 establish use of force course standards.
76. HB 1222 limit the liability of permit and certificate-issuing entities and certified use of force instructors.
77. SB 81 repeal outdated sections regarding enhanced concealed carry permit requirements.

CRIMINAL PROCEDURE

78. SB 72 revise provisions related to the discharge of a defendant restored to competency.
79. SB 64 repeal provisions related to the jail mental health screening pilot program and oversight council.

CORRECTIONAL FACILITIES AND PAROLE

80. SB 146 limit parole for violent offenders.
81. SB 51 revise certain provisions regarding the reimbursement of county expenses in detaining parole violators.

82. SB 52 update certain provisions regarding the Department of Corrections and the authority of the Secretary of Corrections.

DOMESTIC RELATIONS

83. HB 1231 revise certain provisions related to the sealing of adoption records.
84. SB 75 revise provisions related to parental support for expenses related to pregnancy and childbirth.

MINORS

85. SB 70 revise provisions related to courtroom modifications for child witnesses.
86. SB 4 modify a court's authority to commit a habitual juvenile offender to the Department of Corrections.
87. SB 6 authorize community response teams to recommend alternative community-based resources for children alleged to be delinquent and children alleged to be in need of supervision prior to adjudication.
88. SB 5 extend the termination date of the Juvenile Justice Oversight Council and modify its membership requirements.
89. SB 2 revise Department of Corrections reporting requirements concerning abuse and neglect of individuals in private contracted facilities.

MENTALLY ILL PERSONS

90. SB 7 clarify emergency commitments of severely mentally ill persons by appropriate regional facilities.

DEVELOPMENTALLY DISABLED PERSONS

91. SB 9 modify discharge notice procedures applicable to developmentally disabled persons.
92. HB 1174 provide for appropriate civil commitment of certain persons.

EDUCATION

93. HB 1046 provide free tuition at Board of Technical Education institutions for children or spouses of members of the South Dakota National Guard disabled or deceased in the line of duty.

PUBLIC WELFARE AND ASSISTANCE

94. SB 28 revise and repeal obsolete provisions related to the Department of Social Services.

UNIFORM PROBATE CODE

95. HB 1240 amend provisions addressing guardianships and conservatorships.

HIGHWAYS AND BRIDGES

96. SB 150 add provisions regarding construction and maintenance of livestock pipelines on highways.
97. SB 145 revise provisions pertaining to township eligibility for the rural access infrastructure fund.

MOTOR VEHICLES

98. HB 1042 update additional charges allowed for mailing decals and plates and to declare an emergency.
99. SB 31 create an off-road vehicle decal for non-residents visiting the state.
100. SB 159 revise provisions regarding vehicle warranty claims.
101. SB 61 revise driver's license suspensions for restricted permit holders over the age of sixteen.
102. SB 15 accept Uniformed Services ID as proof of veteran status to have veteran designation added to a state license or ID card.
103. HB 1036 increase civil penalties for commercial driver's license holders and motor carriers.
104. HB 1215 revise certain provisions regarding the operation of a golf cart on a state or county highway.
105. HB 1158 ban counterfeit airbags.
106. SB 115 revise certain provisions regarding consideration of out-of-state convictions for driving under the influence.

107. HB 1170 establish mandatory sentences for certain driving while under the influence violations.

MILITARY AFFAIRS

108. HB 1048 repeal and make technical changes to provisions regarding the Board of Military Affairs.
109. HB 1047 revise certain provisions regarding military affairs.
110. HB 1039 revise certain provisions regarding the payment of tuition for members of the South Dakota National Guard.

VETERANS AFFAIRS

111. HB 1038 revise certain provisions pertaining to the Department of Veterans Affairs and residency in the State Veterans Home.
112. HB 1045 increase the basic salary schedule for county veterans' service officers.
113. HB 1054 provide a stipend for the erection of a private headstone for a deceased veteran.
114. HB 1065 increase the maximum amount of dollars payable by the state to erect the headstone of a deceased veteran.

PUBLIC HEALTH AND SAFETY

115. SB 180 address requirements for the execution of a living will.
116. HB 1155 add dental practices as eligible facilities to participate in the rural health care recruitment assistance program.
117. SB 67 revise provisions related to emergency and involuntary commitment for alcohol and drug abuse.
118. HB 1162 authorize employers to acquire and make available opioid antagonists.
119. SB 27 place certain substances on the controlled substances schedule and to declare an emergency.
120. HB 1053 prohibit the issuance of a written certification to a pregnant woman or breastfeeding mother for purposes of medical cannabis use.
121. HB 1150 provide a medical cannabis patient a registry identification card fee waiver in certain circumstances.
122. SB 1 modify debilitating medical conditions for medical cannabis use.
123. HB 1154 modify acceptable conduct for practitioners related to medical cannabis.
124. SB 198 allow medical cannabis establishments to maintain certain cardholder data and to declare an emergency.
125. SB 134 revise membership of the Medical Marijuana Oversight Committee.
126. HB 1132 revise provisions regarding the duties of the medical marijuana oversight committee.
127. HB 1080 prohibit certain medical and surgical interventions on minor patients.
128. HB 1145 revise the order of precedence for the right to control the disposition of the remains of a deceased person.
129. SB 141 clarify and modernize cremation requirements and procedures.
130. SB 204 expand critical incident stress management to health care facility personnel providing emergency services.

ENVIRONMENTAL PROTECTION

131. SB 92 require that certain operations obtain their own general or individual water pollution permits.

ALCOHOLIC BEVERAGES

132. HB 1176 revise certain provisions regarding on-sale alcoholic beverage licenses for use at municipality-owned facilities.

PROFESSIONS AND OCCUPATIONS

133. SB 76 provide for licensure by endorsement for certain licensed professionals and occupations.
134. SB 181 authorize the provision of medical records and the imposition of related fees.

135. HB 1059 establish a community paramedic endorsement.
136. SB 78 create the South Dakota Board of Physical Therapy and make an appropriation therefor.
137. HB 1015 update provisions related to the licensure of funeral directors and the provision of funeral services.
138. SB 77 reinstate the restricted real estate broker's license for auctioneers and revise real estate licensing.
139. HB 1183 authorize the state's participation in the interstate compact on occupational therapy licensure.
140. SB 8 revise provisions relating to addiction and prevention services professionals.
141. HB 1014 update provisions related to the licensure of speech-language pathologists and speech-language pathology assistants.

TRADE REGULATION

142. HB 1101 ensure the proper labeling of American Indian arts and crafts.

AGRICULTURE AND HORTICULTURE

143. HB 1210 modify the use of conservation district special revenue fund monies and to provide an appropriation therefor.
144. HB 1025 revise the fees for registration of an apiary.
145. HB 1028 modify expiration dates and enforcement actions pertaining to pesticide applicator licenses.
146. HB 1121 expand the definition of a pesticide dealer.

GAME, FISH, PARKS AND FORESTRY

147. HB 1019 repeal certain requirements for Game, Fish and Parks licensing agents.
148. HB 1018 repeal the authorized forfeiture of property used in the illegal capture of fish.

WATER MANAGEMENT

149. SB 17 make appropriations for water and environmental purposes and to declare an emergency.
150. SB 83 revise provisions regarding water development districts.
151. SB 143 raise the revenue threshold for a required audit of a water development district.
152. SB 200 authorize participation in contracts by certain board members and employees of water districts.
153. SB 84 authorize compensation for water project district directors.
154. SB 44 repeal provisions regarding the creation of river basin natural resource districts.

PUBLIC UTILITIES AND CARRIERS

155. SB 11 update the deposit threshold for actions related to general rate cases.
156. HB 1184 revise provisions related to the One-Call Notification Board.
157. HB 1013 update references to certain federal motor carrier regulations.
158. HB 1005 update certain citations to federal regulations regarding pipeline safety inspections.

BANKS AND BANKING

159. SB 43 revise certain provisions regarding money transmission.

CONTRACTS

160. HB 1185 prohibit certain restrictions in employment contracts.

FIDUCIARIES AND TRUSTS

161. SB 95 amend provisions regarding trusts.

INSURANCE

162. SB 62 amend provisions regarding delivery of electronic insurance documents.
163. SB 22 streamline examination reports.
164. HB 1088 update requirements for an insurance company seeking to do business in this state.

165. HB 1012 repeal the annual grievance reporting requirements for health carriers.
166. HB 1135 provide for transparency in the pricing of prescription drugs.
167. SB 85 revise rebating provisions in the insurance code.
168. HB 1091 amend provisions of the insurance statutes regarding producer recommendations and responsibilities.

AGENCY

169. HB 1189 require certain entities owning agricultural land to report foreign beneficial ownership interests.
170. SB 42 modify power of attorney requirements for certain vehicle transfer authorizations.

REEMPLOYMENT ASSISTANCE

171. HB 1011 revise employer contribution rates.

UNCODIFIED ACTS

172. HB 1010 repeal the sunset date for provisions related to the licensure of behavior analysts.
173. HB 1026 make an appropriation for costs related to suppression of wildfires in the state and to declare an emergency.
174. HB 1027 make an appropriation for costs related to disasters in the state and to declare an emergency.
175. HB 1063 require the Unified Judicial System to assemble a task force to address barriers to services for emerging adults involved in the justice system in South Dakota.
176. SB 12 authorize the construction of a National Guard vehicle maintenance shop in Watertown, to make an appropriation therefor, and to declare an emergency.
177. SB 13 authorize the construction of an addition to the BG Dean Mann Readiness Center in Sioux Falls, to make an appropriation therefor, and to declare an emergency.
178. SB 14 revise the legal description for the construction of a National Guard Readiness Center in Sioux Falls, make an additional appropriation therefor, and to declare an emergency.
179. HB 1064 require the Unified Judicial System to assemble a task force to address the provision of legal services to indigent parties within the South Dakota court system and to declare an emergency.
180. SB 34 authorize the sale of real property in Lake County by the Board of Regents, and to declare an emergency.
181. SB 93 provide an increased appropriation for the construction costs of an athletics events center at Dakota State University, and to declare an emergency.
182. SB 25 make an appropriation to reimburse health care professionals who have complied with the requirements for health care recruitment assistance programs and to declare an emergency.
183. SB 19 make an appropriation for the payment of extraordinary litigation expenses and to declare an emergency.
184. SB 20 authorize the awarding of deobligated grants in accordance with policies of the Board of Water and Natural Resources.
185. HB 1006 increase the funding for construction of an addition to the Kinsman Building in Pierre, to make an appropriation therefor, and to declare an emergency.
186. HB 1032 make an appropriation for the demolition and reconstruction of agricultural-use structures at South Dakota State University, and to declare an emergency.
187. HB 1196 make an appropriation for improving the buildings and grounds of the capitol complex and declare an emergency.

188. SB 103 create a pilot program in the Unified Judicial System for risk and lethality assessments for certain persons accused of assault or protection order violations.
189. HB 1030 make an appropriation for the revised construction costs of the bioproducts facility in Brookings, and to declare an emergency.
190. SB 33 amend an appropriation for the revised construction costs of the Mineral Industries Building at the School of Mines and Technology, and to declare an emergency.
191. SB 18 revise the appropriation for a livestock and equestrian complex at the State Fair, and to declare an emergency.
192. HB 1016 authorize the South Dakota Department of Corrections to construct a prison facility for offenders committed to the Department of Corrections in Rapid City, to make an appropriation therefor, and to declare an emergency.
193. HB 1035 make an appropriation to the Department of Revenue for the modernization of the motor vehicle administration system, and to declare an emergency.
194. HB 1021 make an appropriation to the State Conservation Commission and to declare an emergency.
195. HB 1017 authorize the Department of Corrections to purchase certain real property, to contract for the design of a prison facility for offenders committed to the Department of Corrections, to make an appropriation therefor, to transfer funds to the incarceration construction fund, and to declare an emergency.
196. HB 1023 make an appropriation for the construction of a maintenance shop for the Wildland Fire Suppression Division in Rapid City and to declare an emergency.
197. HB 1024 make an appropriation for the construction of a maintenance shop for the Wildland Fire Suppression Division in Hot Springs and to declare an emergency.
198. HB 1078 make an appropriation to the Department of Human Services for the development and expansion of adult day services programs and to declare an emergency.
199. HB 1079 make an appropriation to the Department of Health to provide grants to support mental health and suicide prevention programs, and to declare an emergency.
200. SB 23 make an appropriation for the modernization of the state's enterprise resource planning systems and to declare an emergency.
201. SB 21 make an appropriation for costs related to the Black Hills National Forest Land and Resource Management Plan revision process and to declare an emergency.
202. SB 172 make an appropriation for design costs related to the health services center at Black Hills State University–Rapid City, and to declare an emergency.
203. SB 161 make an appropriation to the Office of the Secretary of State for voter roll maintenance, ballot machines, and election security.
204. SB 173 make an appropriation for design costs related to the new Lincoln Hall at Northern State University, and to declare an emergency.
205. SB 35 make an appropriation to expand laboratory space at the Sanford Underground Research Facility and to declare an emergency.
206. HB 1127 make an appropriation to support volunteer fire departments and to declare an emergency.
207. SB 16 make an appropriation to rehabilitate the rail line from the city of Milbank to the city of Sisseton and to declare an emergency.
208. SB 59 make an appropriation to the Department of Education for grants to support career and technical education programs, and to declare an emergency.

209. HB 1022 make an appropriation for increased costs related to the construction of the new state public health laboratory, and to declare an emergency.
210. HB 1049 revise the General Appropriations Act for fiscal year 2023.
211. SB 210 appropriate money for the ordinary expenses of the legislative, judicial, and executive departments of the state, the current expenses of state institutions, interest on the public debt, and for common schools.

SUPREME COURT RULES AND ORDERS

212. 22-11 IN THE MATTER OF THE AMENDMENT SDCL 1-26-33.2.
213. 22-12 IN THE MATTER OF THE AMENDMENT SDCL 15-6-5 (a) through (j).
214. 22-13 IN THE MATTER OF THE AMENDMENT SDCL 15-6-45(a).
215. 22-14 IN THE MATTER OF THE AMENDMENTS OF THE APPENDIX OF FORMS TO SDCL CHAPTER 15-6 TO INCLUDE FORMS 8, 9, 14, 17, 19, 20 and 21.
216. 22-15 IN THE MATTER OF THE AMENDMENT SDCL 15-12-37.
217. 22-16 IN THE MATTER OF THE ADOPTION OF A NEW RULE CONCERNING COURT REPORTER TRANSCRIPT FEES.
218. 23-01 IN THE MATTER OF THE PROPOSED AMENDMENT TO THE APPENDIX TO CHAPTER 16-16 REGULATIONS OF THE BOARD OF BAR EXAMINERS STATE OF SOUTH DAKOTA 5. ACCEPTANCE OF MULTISTATE BAR EXAMINATION RESULTS FROM OTHER STATES.
219. 23-02 IN THE MATTER OF THE AMENDMENT SDCL 15-25-2.
220. 23-03 IN THE MATTER OF THE AMENDMENT SDCL 15-26A-13.
221. 23-04 IN THE MATTER OF THE AMENDMENT SDCL 15-26A-16.
222. 23-05 IN THE MATTER OF THE AMENDMENT SDCL 15-26A-73.
223. 23-06 IN THE MATTER OF THE AMENDMENT SDCL 15-26A-79.
224. 23-07 IN THE MATTER OF THE AMENDMENT SDCL 15-26A-87.2.
225. 23-08 IN THE MATTER OF THE AMENDMENT SDCL 15-26A-87.3.
226. 23-09 IN THE MATTER OF THE AMENDMENT SDCL 15-26A-91.
227. 23-10 IN THE MATTER OF THE AMENDMENT SDCL 15-26C-1.
228. 23-11 IN THE MATTER OF THE AMENDMENT SDCL 15-26C-2.
229. 23-12 IN THE MATTER OF THE AMENDMENT SDCL 15-26C-3.
230. 23-13 IN THE MATTER OF THE AMENDMENT SDCL 15-26C-4.
231. 23-14 IN THE MATTER OF THE AMENDMENT SDCL 15-30-4.
232. 23-15 IN THE MATTER OF THE AMENDMENT SDCL 15-30-9.

TOPICAL INDEX

BILL NUMBER TO CHAPTER NUMBER CROSS-REFERENCE TABLE

ENACTED, AMENDED, AND REPEALED SECTIONS TABLE

UNCODIFIED ACTS

Chapter 1

(**Constitutional Amendment D)**

An initiated amendment to the South Dakota Constitution expanding Medicaid eligibility.

BE IT ENACTED BY THE PEOPLE OF SOUTH DAKOTA:

Section 1. That Article XXI of the Constitution of the State of South Dakota be amended with a NEW SECTION:

Beginning July 1, 2023, the State of South Dakota shall provide Medicaid benefits to any person over eighteen and under sixty-five whose income is at or below one hundred thirty-three percent of the federal poverty level plus five percent of the federal poverty level for the applicable family size, as authorized by federal law as of January 1, 2021. Such person shall receive coverage that meets or exceeds the benchmark or benchmark-equivalent coverage requirements, as such terms are defined by federal law as of January 1, 2021.

The State of South Dakota may not impose greater or additional burdens or restrictions on eligibility or enrollment standards, methodologies, or practices on any person eligible under this section than on any person otherwise eligible for Medicaid under South Dakota law.

No later than March 1, 2023, the Department of Social Services shall submit all state plan amendments necessary to implement this section to the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services.

The State of South Dakota shall take all actions necessary to maximize the federal financial medical assistance percentage in funding medical assistance pursuant to this section.

This section shall be broadly construed to accomplish its purposes and intents. If any provision in this section or the application thereof to any person or circumstance is held invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of the section that can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this section are severable.

JOINT RESOLUTIONS

Chapter 2

(Senate Joint Resolution 505)

A JOINT RESOLUTION, Proposing and submitting to the electors at the next general election an amendment to the Constitution of the State of South Dakota, updating references to certain officeholders and persons.

Be it resolved by the Senate of the State of South Dakota, the House of Representatives concurring therein:

Section 1. That at the next general election held in the state, the following amendments to the Constitution of the State of South Dakota, as set forth in sections 2 through 25 of this Joint Resolution, which is hereby agreed to, shall be submitted to the electors of the state for approval.

Section 2. That Article IV, § 3 of the Constitution of the State of South Dakota, be AMENDED:

§ 3. The Governor shall be responsible for the faithful execution of the law. ~~He~~ The Governor may, by appropriate action or proceeding brought in the name of the state, enforce compliance with any constitutional or legislative mandate, or restrain violation of any constitutional or legislative power, duty or right by any officer, department or agency of the state or any of its civil divisions. This authority shall not authorize any action or proceedings against the Legislature.

~~He~~ The Governor shall be commander-in-chief of the armed forces of the state, except when they shall be called into the service of the United States, and may call them out to execute the laws, to preserve order, to suppress insurrection or to repel invasion.

The Governor shall commission all officers of the state. ~~He~~ The Governor may at any time require information, in writing or otherwise, from the officers of any administrative department, office or agency upon any subject relating to the respective offices.

The Governor shall at the beginning of each session, and may at other times, give the Legislature information concerning the affairs of the state and recommend the measures ~~he~~ The Governor considers necessary.

The Governor may convene the Legislature or either house thereof alone in special session by a proclamation stating the purposes of the session, and only business encompassed by such purposes shall be transacted.

Whenever a vacancy occurs in any office and no provision is made by the Constitution or laws for filling such vacancy, the Governor shall have the power to fill such vacancy by appointment.

The Governor may, except as to convictions on impeachment, grant pardons, commutations, and reprieves, and may suspend and remit fines and forfeitures.

Section 3. That Article IV, § 5 of the Constitution of the State of South Dakota, be AMENDED:

§ 5. The lieutenant governor shall be president of the senate but shall have no vote unless the senators be equally divided. The lieutenant governor shall perform the duties and exercise the powers that may be delegated to ~~him~~ the lieutenant governor by the Governor.

Section 4. That Article IV, § 8 of the Constitution of the State of South Dakota, be AMENDED:

§ 8. All executive and administrative offices, boards, agencies, commissions and instrumentalities of the state government and their respective functions, powers and duties, except for the office of Governor, lieutenant governor, attorney general, secretary of state, auditor, treasurer, and commissioner of school and public lands, shall be allocated by law among and within not more than twenty-five principal departments, organized as far as practicable according to major purposes, by no later than July 1, 1974. Subsequently, all new powers or functions shall be assigned to administrative offices, agencies and instrumentalities in such manner as will tend to provide an orderly arrangement in the administrative organization of state government. Temporary commissions may be established by law and need not be allocated within a principal department.

Except as to elected constitutional officers, the Governor may make such changes in the organization of offices, boards, commissions, agencies and instrumentalities, and in allocation of their functions, powers and duties, as ~~he~~ the Governor considers necessary for efficient administration. If such changes affect existing law, they shall be set forth in executive orders, which shall be submitted to the Legislature within five legislative days after it convenes, and shall become effective, and shall have the force of law, within ninety days after submission, unless disapproved by a resolution concurred in by a majority of all the members of either house.

Section 5. That Article V, § 5 of the Constitution of the State of South Dakota, be AMENDED:

§ 5. The Supreme Court shall have such appellate jurisdiction as may be provided by the Legislature, and the Supreme Court or any justice thereof may issue any original or remedial writ which shall then be heard and determined by that court. The Governor has authority to require opinions of the Supreme Court upon important questions of law involved in the exercise of ~~his~~ the Governor's executive power and upon solemn occasions.

The circuit courts have original jurisdiction in all cases except as to any limited original jurisdiction granted to other courts by the Legislature. The circuit courts and judges thereof have the power to issue, hear and determine all original and remedial writs. The circuit courts have such appellate jurisdiction as may be provided by law.

Imposition or execution of a sentence may be suspended by the court empowered to impose the sentence unless otherwise provided by law.

Section 6. That Article V, § 6 of the Constitution of the State of South Dakota, be AMENDED:

§ 6. Justices of the Supreme Court, judges of the circuit courts and persons presiding over courts of limited jurisdiction must be citizens of the United States, residents of the state of South Dakota and voting residents within the

district, circuit or jurisdiction from which they are elected or appointed. No Supreme Court justice shall ~~be deemed to have lost his~~ lose voting residence in a district ~~by reason of his removal~~ because the justice moved to the seat of government in the discharge of ~~his~~ the justice's official duties. Justices of the Supreme Court and judges of circuit courts must be licensed to practice law in the state of South Dakota.

Section 7. That Article V, § 7 of the Constitution of the State of South Dakota, be AMENDED:

§ 7. Circuit court judges shall be elected in a nonpolitical election by the electorate of the circuit each represents for an eight-year term.

A vacancy, as defined by law, in the office of a Supreme Court justice or circuit court judge, shall be filled by appointment of the Governor from one of two or more persons nominated by the judicial qualifications commission. The appointment to fill a vacancy of a circuit court judge shall be for the balance of the unexpired term; and the appointment to fill a vacancy of a Supreme Court justice shall be subject to approval or rejection as hereinafter set forth.

Retention of each Supreme Court justice shall, in the manner provided by law, be subject to approval or rejection on a nonpolitical ballot at the first general election following the expiration of three years from the date of ~~his~~ the appointment. Thereafter, each Supreme Court justice shall be subject to approval or rejection in like manner every eighth year. All incumbent Supreme Court justices at the time of the effective date of this amendment shall be subject to a retention election in the general election in the year in which their respective existing terms expire.

Section 8. That Article V, § 8 of the Constitution of the State of South Dakota, be AMENDED:

§ 8. The chief justice shall be selected from among the justices of the Supreme Court for a term and in a manner to be provided by law. The chief justice may resign ~~his office~~ the office of chief justice without resigning from the Supreme Court.

Section 9. That Article V, § 9 of the Constitution of the State of South Dakota, be AMENDED:

§ 9. The Legislature shall provide by law for the establishment of a judicial qualifications commission which have such powers as the Legislature may provide, including the power to investigate complaints against any justice or judge and to conduct confidential hearings concerning the removal or involuntary retirement of a justice or judge. The Supreme Court shall prescribe by rule the means to implement and enforce the powers of the commission. On recommendation of the judicial qualifications commission the Supreme Court, after hearing, may censure, remove or retire a justice or judge for action which constitutes willful misconduct in office, willful and persistent failure to perform ~~his~~ official duties, habitual intemperance, disability that seriously interferes with the performance of the duties or conduct prejudicial to the administration of justice which brings a judicial office into disrepute. No justice or judge shall sit in judgment in any hearing involving ~~his~~ the justice or judge's own removal or retirement.

Section 10. That Article V, § 10 of the Constitution of the State of South Dakota, be AMENDED:

§ 10. ~~During his term of office~~ While in office, no Supreme Court justice or circuit court judge shall engage in the practice of law. Any Supreme Court justice

or circuit court judge who becomes a candidate for an elective nonjudicial office shall thereby forfeit ~~his~~ the justice or judge's judicial office.

Section 11. That Article V, § 11 of the Constitution of the State of South Dakota, be AMENDED:

§ 11. The chief justice is the administrative head of the unified judicial system. The chief justice shall submit an annual consolidated budget for the entire unified judicial system, and the total cost of the system shall be paid by the state. The Legislature may provide by law for the reimbursement to the state of appropriate portions of such cost by governmental subdivisions. The Supreme Court shall appoint such court personnel as it deems necessary to serve at its pleasure.

The chief justice shall appoint a presiding circuit judge for each judicial circuit to serve at the pleasure of the chief justice. Each presiding circuit judge shall have such administrative power as the Supreme Court designates by rule and may, unless it be otherwise provided by law, appoint judicial personnel to courts of limited jurisdiction to serve at ~~his~~ the pleasure of the presiding circuit judge. Each presiding circuit judge shall appoint clerks and other court personnel for the counties in ~~his~~ the presiding judge's circuit who shall serve at ~~his~~ the pleasure of the presiding judge at a compensation fixed by law. Duties of clerks shall be defined by Supreme Court rule.

The chief justice shall have power to assign any circuit judge to sit on another circuit court, or on the Supreme Court in case of a vacancy or in place of a justice who is disqualified or unable to act. The chief justice may authorize a justice to sit as a judge in any circuit court.

The chief justice may authorize retired justices and judges to perform any judicial duties to the extent provided by law and as directed by the Supreme Court.

Section 12. That Article VI, § 3 of the Constitution of the State of South Dakota, be AMENDED:

§ 3. The right to worship God according to the dictates of conscience shall never be infringed. No person shall be denied any civil or political right, privilege or position on account of ~~his~~ the person's religious opinions; but the liberty of conscience hereby secured shall not be so construed as to excuse licentiousness, the invasion of the rights of others, or justify practices inconsistent with the peace or safety of the state.

No person shall be compelled to attend or support any ministry or place of worship against ~~his~~ the person's consent nor shall any preference be given by law to any religious establishment or mode of worship. No money or property of the state shall be given or appropriated for the benefit of any sectarian or religious society or institution.

Section 13. That Article VI, § 7 of the Constitution of the State of South Dakota, be AMENDED:

§ 7. In all criminal prosecutions the accused shall have the right to defend in person and by counsel; to demand the nature and cause of the accusation against ~~him~~ the accused; to have a copy thereof; to meet the witnesses against ~~him~~ the accused face to face; to have compulsory process served for obtaining witnesses ~~in his~~ on the accused's behalf, and to a speedy public trial by an impartial jury of the county or district in which the offense is alleged to have been committed.

Section 14. That Article VI, § 9 of the Constitution of the State of South Dakota, be AMENDED:

§ 9. No person shall be compelled in any criminal case to give evidence against ~~himself~~ the person or be twice put in jeopardy for the same offense.

Section 15. That Article VI, § 20 of the Constitution of the State of South Dakota, be AMENDED:

§ 20. All courts shall be open, and every ~~man~~ person for an injury done ~~him in his~~ to the person's property, person or reputation, shall have remedy by due course of law, and right and justice, administered without denial or delay.

Section 16. That Article VII, § 2 of the Constitution of the State of South Dakota, be AMENDED:

§ 2. Every United States citizen eighteen years of age or older who has met all residency and registration requirements shall be entitled to vote in all elections and upon all questions submitted to the voters of the state unless disqualified by law for mental incompetence or the conviction of a felony. The Legislature may by law establish reasonable requirements to ~~insure~~ ensure the integrity of the vote.

Each elector who qualified to vote within a precinct shall be entitled to vote in that precinct until ~~he~~ the elector establishes another voting residence. An elector shall never lose ~~his~~ residency for voting solely by reason of ~~his~~ the elector's absence from the state.

Section 17. That Article VIII, § 9 of the Constitution of the State of South Dakota, be AMENDED:

§ 9. The lands mentioned in this article shall be leased for pasturage, meadow, farming, the growing of crops of grain and general agricultural purposes, and at public auction after notice as hereinbefore provided in case of sale and shall be offered in tracts not greater than one section. All rents shall be payable annually in advance, and no term of lease shall exceed five years, nor shall any lease be valid until it receives the approval of the Governor.

Provided, that any lessee of school and public lands shall, at the expiration of a five-year lease, be entitled, at ~~his~~ the lessee's option, to a new lease for the land included in ~~his~~ the lessee's original lease, for a period of time not exceeding five years, without public advertising, at the current rental prevailing in the county in which such land is situated, at the time of the issuance of the new lease. The commissioner of school and public lands shall notify by registered mail each lessee or assignee on or before the first day of November first preceding the expiration of ~~his~~ the lessee's lease that such lease will expire.

Such option shall be exercised by the lessee by notifying the commissioner of school and public lands by registered mail, on or before the first day of December first preceding the expiration of ~~his~~ the lessee's lease describing the lands for which ~~he~~ the lessee desires a new lease, in the same manner as the same is described in ~~his~~ the lessee's original lease.

The Legislature may provide by appropriate legislation for the payment of local property taxes by the lessees of school and public lands.

Section 18. That Article XII, § 3 of the Constitution of the State of South Dakota, be AMENDED:

§ 3. The Legislature shall never grant any extra compensation to any

public officer, employee, agent or contractor after the services shall have been rendered or the contract entered into, nor authorize the payment of any claims or part thereof created against the state, under any agreement or contract made without express authority of law, and all such unauthorized agreements or contracts shall be null and void; nor shall the compensation of any public officer be increased or diminished during ~~his~~ the officer's term of office: provided, however, that the Legislature may make appropriations for expenditures incurred in suppressing insurrection or repelling invasion.

Section 19. That Article XII, § 4 of the Constitution of the State of South Dakota, be AMENDED:

§ 4. An itemized statement of all receipts and expenditures of the public moneys shall be published annually in such manner as the Legislature shall provide, and such statement shall be submitted to the Legislature at the beginning of each regular session by the Governor with ~~his~~ the Governor's message.

Section 20. That Article XVI, § 5 of the Constitution of the State of South Dakota, be AMENDED:

§ 5. No officer shall exercise the duties of ~~his~~ the office after ~~he shall have been~~ the officer is impeached and before ~~his~~ the officer's acquittal.

Section 21. That Article XVI, § 7 of the Constitution of the State of South Dakota, be AMENDED:

§ 7. No person shall be tried on impeachment before ~~he shall have been~~ being served with a copy thereof at least twenty days previous to the day set for trial.

Section 22. That Article XVII, § 5 of the Constitution of the State of South Dakota, be AMENDED:

§ 5. In all elections for directors or managers of a corporation, each member or shareholder may cast the whole number of ~~his~~ the member's or shareholder's votes for one candidate, or distribute them upon two or more candidates~~, as he may prefer~~.

Section 23. That Article XX, § 3 of the Constitution of the State of South Dakota, be AMENDED:

§ 3. Should no place voted for at said election have a majority of all votes cast upon this question, the Governor shall issue ~~his~~ a proclamation for an election to be held in the same manner at the next general election to choose between the two places having received the highest number of votes cast at the first election on this question. This election shall be conducted in the same manner as the first election for the permanent seat of government, and the place receiving the majority of all votes cast upon this question shall be the permanent seat of government.

Section 24. That Article XXI, § 2 of the Constitution of the State of South Dakota, be AMENDED:

§ 2. The Legislature by two-thirds vote of each branch thereof at any regular session may fix the salary of any or all constitutional officers including members of the Legislature. In fixing any such salary the Legislature shall determine the effective date thereof and may in its discretion decrease or increase the salary of any officer during ~~his~~ the officer's term.

Section 25. That Article XXI, § 3 of the Constitution of the State of South Dakota, be AMENDED:

§ 3. Every person elected or appointed to any office in this state, except such inferior offices as may be by law exempted, shall, before entering upon the duties thereof, take an oath or affirmation to support the Constitution of the United States and of this state, and faithfully to discharge the duties of ~~his~~ the office.

Filed March 7, 2023

STATE AFFAIRS AND GOVERNMENT

Chapter 3

(House Bill 1175)

An Act to update references to the Governor, lieutenant governor, and other persons.

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

Section 1. That § 1-1-21 be AMENDED:

1-1-21. Except as to criminal offenses and civil causes of action arising on any ~~highways~~ highway, as ~~the term is~~ defined in chapter 31-1, the jurisdiction provided for in § 1-1-18 ~~shall not be deemed~~ is not assumed or accepted by this state, and §§ 1-1-18 and 1-1-20 ~~shall~~ is not ~~be~~ considered in effect, unless and until the Governor of the State of South Dakota, if satisfied that the United States of America has made proper provision for the reimbursement to this state and its counties for the added costs in connection with the assumption of said jurisdiction, has issued ~~his~~ a proper proclamation duly filed with the secretary of state declaring the said jurisdiction to be assumed and accepted.

Section 2. That § 1-7-1 be AMENDED:

1-7-1. The Governor shall possess the powers and perform the duties entailed ~~upon him~~ by the Constitution and by special provisions throughout this code and among others, but without limiting other prescriptions of ~~his~~ the Governor's powers and duties, as follows:

(1) ~~He shall~~ To supervise the official conduct of all executive and ministerial officers;

(2) ~~He shall~~ To see that the laws of the state are faithfully and impartially executed;

(3) ~~He shall~~ To make appointments and fill vacancies in the public offices as required by law;

(4) ~~He is~~ To be the sole official organ of communication between the government of this state and the government of any other state of the United States;

(5) ~~He shall~~ To issue patents for land as required by law and prescribed by the provisions of this code;

(6) ~~He may~~ To offer rewards, not exceeding one thousand dollars each, payable out of the general fund, for the apprehension of any convict who has escaped from the penitentiary or for any person who has committed or is charged with the commission of an offense punishable with imprisonment for life;

(7) ~~He is authorized to~~ To appoint a private secretary and to employ such clerks and stenographers as ~~he shall deem~~ the Governor deems necessary for the proper discharge of ~~his~~ official duties, each of whom shall serve during the pleasure of the Governor and receive such compensation as shall be provided by the Legislature;

(8) ~~He shall~~ To have such other powers and must perform such other duties as are or may be devolved upon ~~him~~ the Governor by law.

Section 3. That § 1-7-1.2 be AMENDED:

1-7-1.2. The Governor or ~~his~~ the Governor's designee shall conduct an annual meeting with representatives of the United States Forest Service to discuss forest service land management programs that affect agricultural productivity on leased forest service land.

Section 4. That § 1-7-4 be AMENDED:

1-7-4. Every provision of this code relating to the powers and duties of the Governor, and to the acts and duties to be performed by others towards ~~him~~the Governor, extends to the person performing for the time being the duties of Governor.

Section 5. That § 1-8-1 be AMENDED:

1-8-1. It is the duty of the secretary of state:

(1) To file official acts of the Governor to which attestation over ~~his~~ the Governor's signature and the great seal is required;

(2) To affix the great seal and his attestation to all commissions, pardons, and other public instruments to which the signature of the Governor is required except such as relate to school and public lands, and also in attesting and authenticating all certificates, charters, and any and all other documents properly issued by the secretary;

(3) To record in proper books all conveyances made to the state, all appointments and commissions made by the Governor and all official bonds filed in ~~his~~ the secretary's office, except bonds of notaries public. All deeds, abstracts of title, and other title papers pertaining to lands owned by the state or by any department or institution of the state, except those under the control of the commissioner of school and public lands, ~~shall~~ must be filed and preserved in the office of the secretary of state;

(4) To file any document, official oath, official bond, articles of incorporation and amendments thereof, and letters of acceptance which the law requires to be filed in ~~his~~ the secretary's office;

(5) To furnish on demand to any person, company, or corporation having paid the lawful fees therefor, a certified copy or copies of all or any part of any law, record, or other instrument kept on file in ~~his~~ the secretary's office;

(6) To prepare immediately previous to any regular session of the Legislature, from the proper election returns filed in his office, a roll of all senators elect, and deliver the same to the president of the senate at least thirty

minutes before the time fixed by law for the opening of the session; to prepare from such election returns a roll of all the members elected to the house of representatives, and at the time fixed by law to call such members to order and preside until a speaker is elected;

(7) To receipt all fees collected by ~~him~~ the secretary under any provision of law, with the date, name of payor, and the nature of the services in each case, which fees so collected by ~~him~~ the secretary shall be paid into the state treasury monthly and report thereof made as provided by law;

(8) To cause to be published and distributed a sufficient number of copies of the title, "Elections" for all election officers and to publish and distribute from time to time any amendments made thereto or to the general election laws of this state;

(9) To perform such other duties as are required of ~~him~~ the secretary by law.

Section 6. That § 1-11-8 be AMENDED:

1-11-8. Whenever the attorney general ~~shall~~, upon ~~his~~ the attorney general's own relation ~~commence~~, commences an investigation, the attorney general shall obtain the consent of the Governor ~~shall be obtained~~ by attaching to the record provided in § 1-11-9 a written request for ~~such~~ the consent. A copy of the record and request ~~shall~~ must be provided to the Governor for ~~his~~ the Governor's file and the Governor shall acknowledge receipt of ~~such~~ the request in writing on the original, which the attorney general shall ~~be retained by the attorney general~~ retain. The request ~~shall~~ must state in general terms the reasons for the request, and, if denied, ~~such~~ the denial ~~shall~~ must be in writing ~~containing~~ and contain a statement in general terms of the reasons for the denial.

Section 7. That § 1-16A-4 be AMENDED:

1-16A-4. The authority shall consist of seven members to be appointed by the Governor who ~~shall be~~ are residents of the state. Not more than four of ~~said~~ the seven members of the authority ~~shall~~ may be of the same political party. At least one of the members to be appointed by the Governor ~~shall~~ must be or ~~shall~~ must have been a trustee, director, comptroller, or other employee of a public or of a private nonprofit hospital knowledgeable in hospital and health care construction and financing. At least one of ~~such~~ the appointed members ~~shall~~ must be or ~~shall~~ must have been a trustee, director, comptroller, or other employee of a public or nonprofit private college or university knowledgeable in the construction and financing of such educational facilities. At least one ~~such~~ appointed member ~~shall~~ must be a person experienced in and having a favorable reputation for skill, knowledge, and experience in the field of state and municipal finance. At least one of ~~such~~ the appointed members ~~shall~~ must be a person experienced in and having a favorable reputation for skill, knowledge, and experience in the field of health facility architecture. At least one of ~~such~~ the appointed members ~~shall~~ must be a person experienced in and having a favorable reputation for skill, knowledge, and experience in the field of higher educational facility architecture. In making appointments, the Governor shall take into consideration nominees recommended ~~to him~~ for appointment by professional organizations of hospitals, long term care facilities, higher education associations, investment banking, and architects.

Section 8. That § 1-29-1 be AMENDED:

1-29-1. Whenever, due to an emergency resulting from the effects of enemy attack, or the anticipated effects of a threatened enemy attack, it becomes imprudent, inexpedient, or impossible to conduct the affairs of state government at the normal location of the seat thereof in the city of Pierre, Hughes County,

South Dakota, the Governor shall, as often as the exigencies of the situation require, by proclamation, declare an emergency temporary location, or locations, for the seat of government at such place, or places, within or ~~without~~ outside of this state as ~~he~~ the Governor may deem advisable under the circumstances, and shall take such action and issue such orders as ~~may be~~ necessary for an orderly transition of the affairs of state government to such emergency temporary location, or locations. ~~Such~~ The emergency temporary location, or locations, ~~shall~~ must remain ~~as~~ the seat of government until the Legislature ~~shall by law establish~~ establishes a new location, or locations, or until the emergency is declared to be ended by the Governor and the seat of government is returned to its normal location.

Section 9. That § 1-30-11 be AMENDED:

1-30-11. Any dispute concerning a question of fact arising under this chapter with respect to an office in the executive branch of the state government ~~(~~, except a dispute of fact relative to the Office of Governor~~) shall~~, must be adjudicated by the Governor ~~(~~, or other official authorized under the Constitution or this chapter to exercise the powers and discharge the duties of the Office of Governor~~)~~, and ~~his~~ the Governor's decision ~~shall be~~ is final.

Section 10. That § 1-33-4 be AMENDED:

1-33-4. Except as provided by § 1-33-10, the heads of the bureaus within the Department of Executive Management ~~shall be~~ are appointed by the Governor and serve at ~~his~~ the Governor's pleasure, and ~~shall~~ each have the title of commissioner.

Section 11. That § 1-53-25 be AMENDED:

1-53-25. Notwithstanding any other ~~provisions~~ provision of law, funds and the proceeds of the trust assets which are not authorized to be administered by the secretary of agriculture of the United States under the provisions of § 1-53-24 ~~shall~~ must be received by the commissioner of the Governor's Office of Economic Development under the application made pursuant to § 1-53-23, and ~~by him~~ deposited by the commissioner with the state treasurer for use by the commissioner of the Governor's Office of Economic Development for ~~such of~~ the rural rehabilitation purposes permissible under the charter of the now dissolved South Dakota Rural Rehabilitation Corporation, as may from time to time be agreed upon by the commissioner of the Governor's Office of Economic Development with the approval of the Governor and the secretary of agriculture of the United States, subject to the applicable provisions of ~~said~~ Public Law 499, or for the purposes of § 1-53-24.

Section 12. That § 1-53-26 be AMENDED:

1-53-26. The commissioner of the Governor's Office of Economic Development, with the approval of the Governor, is authorized and empowered to collect, compromise, adjust, or cancel claims and obligations arising out of or administered under §§ 1-53-23 to 1-53-37, inclusive, or under any mortgage, lease, contract, or agreement entered into or administered pursuant to §§ 1-53-23 to 1-53-37, inclusive, and, if in ~~his~~ the commissioner's judgment~~,~~ is necessary and advisable, pursue the same to final collection in any court having jurisdiction.

Section 13. That § 1-54-4 be AMENDED:

1-54-4. Before entering into a compact with an Indian tribe on any class III gaming under the Federal Indian Gaming Regulatory Act, the Governor or ~~his~~

the Governor's designee ~~shall~~ must hold one or more public hearings in the affected area to allow any interested persons to state their views.

Section 14. That § 2-4-3.1 be AMENDED:

2-4-3.1. If the lieutenant governor is not assigned sufficient duties to require ~~his~~ full-time attention, then when carrying out ~~his~~ the lieutenant governor's duties as a member of a board, committee, or commission established by the Legislature, ~~he~~ the lieutenant governor may receive a per diem ~~of~~ not to exceed seventy-five dollars per day or such amount as may be otherwise provided by law in the legislation establishing the board, committee, or commission. The per diem as authorized by this section may be paid for a maximum of sixty days in any calendar year.

Section 15. That § 2-7-20.1 be AMENDED:

2-7-20.1. Whenever the Governor certifies, pursuant to paragraph four of section 4 of article IV of the Constitution, that the Legislature has conformed a bill to ~~his~~ the Governor's recommendations, that certificate ~~shall~~ must be typed and signed on the enrolled bill.

Section 16. That § 2-7-20.2 be AMENDED:

2-7-20.2. Whenever the Governor vetoes any bill or any items of a bill ~~which was~~ presented to ~~him~~ the Governor five or more calendar days before an adjournment or a recess of the Legislature, ~~he~~ the Governor shall transmit ~~his~~ the Governor's veto message with the original bill to the secretary of the Senate or chief clerk of the House of Representatives, whichever was the house of origin, on the date of ~~his~~ the Governor's exercise of the power, but no later than noon on the last legislative day prior to adjournment or recess. The officer of the house receiving the veto message shall certify on the original copy of the bill whether reconsideration was had and the vote on any reconsideration and shall transmit the bill and veto message to the secretary of state for filing when the time for reconsideration has passed.

Section 17. That § 2-7-20.3 be AMENDED:

2-7-20.3. Whenever the Governor vetoes a bill or any items of a bill ~~which was~~ presented to ~~him~~ the Governor during the final four days preceding an adjournment or a recess, and it cannot be transmitted to the house of origin in session, ~~he~~ the Governor shall transmit the original bill and ~~his~~ the Governor's veto message to the secretary of state within one day following ~~his~~ the Governor's veto, but no later than the sixteenth day following adjournment or recess.

Section 18. That § 2-7-20.4 be AMENDED:

2-7-20.4. Whenever the Governor fails to veto any bill which shall become law without ~~his~~ the Governor's signature or the certificate referred to in § 2-7-20.1, ~~he~~ the Governor shall deliver it to the secretary of state, who shall note, beneath the signature line provided for the Governor, that it was delivered by the Governor without ~~his~~ the Governor's signature and without ~~his objections~~ objection. ~~No~~ The secretary of state may not file or record any communication relating to ~~his~~ the Governor's reasons for not signing the bill ~~shall be filed or recorded by the secretary of state~~.

Section 19. That § 3-9-6 be AMENDED:

3-9-6. The Governor may delegate to each responsible officer of any other department, agency, or institution the authority to grant written consent for official

travel outside this state. The Governor~~, in his discretion,~~ may establish ~~such~~ general guidelines for travel outside the state as ~~he~~ the Governor deems appropriate. For each outside-the-state expenditure~~,~~ there ~~shall~~ must be a record signed by the appropriate responsible officer authorizing the same. State agencies are permitted to follow federal regulations for payment of travel and other allowances to state employees, dependents of state employees, or to foreign nationals where the travel and other allowances are funded entirely by federal or private grants in support of international programs.

Section 20. That § 3-17-4 be AMENDED:

3-17-4. Proceedings for the removal of any such officer may be commenced either by the Governor on ~~his~~ the Governor's own motion, or on written complaint of any citizen of the state, filed with the Governor. Written notice of the time and place fixed for the hearing of ~~such~~ the complaint, together with a copy thereof, ~~shall~~ must be personally served ~~upon such~~ on the officer at least ten days before ~~such~~ the hearing.

Section 21. That § 4-7-3 be AMENDED:

4-7-3. The Governor, through the Bureau of Finance and Management, shall ~~have such supervision of~~ supervise every public department, agency, commission, institution and other governmental units as ~~shall be~~ is necessary to secure a uniform and standard classification of accounts and financial reports that will promote the efficient and accurate financial information necessary to conduct the fiscal affairs of state government. ~~He~~ The Governor may inquire into the methods of conducting the affairs of any public body~~; he~~, and may prescribe and direct the use of standard forms and uniform records of accounts and standard and uniform financial reports, including, if deemed advisable, an encumbrance system and an allotment system.

Section 22. That § 4-7-8 be AMENDED:

4-7-8. The Governor, before submission of the budget report to the Legislature, shall examine the statements and estimates with a representative or representatives designated by the Legislative Research Council, and shall make or cause to be made such further investigations by the Bureau of Finance and Management, with such hearings before ~~him~~ the Governor as ~~he~~ the Governor deems advisable. The Governor shall direct such changes or revisions in policy and program and in specific details as ~~he~~ the Governor finds warranted, provided, however, that such changes or revisions in policy and program shall be documented in each budget report submitted.

Section 23. That § 4-7-12 be AMENDED:

4-7-12. The Governor-elect and ~~his~~ the Governor-elect's designated budget representatives ~~shall be~~ are entitled to examine the budget report in process and the Bureau of Finance and Management shall provide ~~him~~ the Governor-elect with every practicable facility for familiarizing ~~himself~~ the Governor-elect with its contents.

In case of a change of administration, the outgoing Governor shall deliver the budget report to the Legislature with ~~his~~ a message, and the incoming Governor shall then have ten legislative days in which to review the budget as prepared and delivered by ~~his~~ the Governor-elect's predecessor, and ~~he~~ the Governor-elect may send to the Legislature a supplementary budget message making suggestions for any changes ~~which he deems wise~~.

Section 24. That § 4-8-17 be AMENDED:

4-8-17. The Governor is authorized and empowered to accept on behalf of the state any appropriations made or moneys allotted to the state by the United States of America, as well as the provisions of any act of Congress appropriating or allotting such funds to the state to be used in cooperation with departments of the federal government and appropriations and acts of Congress.

The Governor shall administer and expend funds received for the State of South Dakota pursuant to the provisions of this section ~~shall be administered and expended under the immediate supervision of the Governor~~ through such state departments as~~he shall designate~~ the Governor designates for that purpose~~, and~~. ~~shall~~ The funds must be deposited in the state treasury to be paid out by warrants drawn by the state auditor on vouchers approved by the Governor.

Section 25. That § 4-8A-9 be AMENDED:

4-8A-9. All requests by state departments and institutions for moneys from any general contingency funds appropriated by the general appropriation act or any special act ~~shall~~ must be submitted in writing to the Governor, the Bureau of Finance and Management, and the chairman or chairmen of the special committee, setting forth clearly the proposed usage and necessity for such funds. If the Governor deems any such request to be in the public interest and of sufficient necessity, ~~he~~ the Governor shall submit a recommendation to the special committee, for its consideration and disposition.

Section 26. That § 5-2-11 be AMENDED:

5-2-11. Upon application for conveyance of the title, or the granting of an easement of any kind over or across lands in which the title is in the State of South Dakota, the board, commission, or other agency of the State of South Dakota having the control of and administration of such lands shall forward to the commissioner of school and public lands a certified copy of a resolution of the agency requesting the conveyance, stating the consideration and citing the specific authority, if any, authorizing the conveyance. Whereupon, the commissioner shall draw easements or conveyances of the title and submit the same to the Governor for approval~~; and, if~~. If approved by~~ him~~ the Governor, such instruments~~ shall~~ must be signed by the Governor and attested by the commissioner of school and public lands, who shall cause such conveyance to be recorded in the office of the register of deeds of the county in which said real estate is located. All payments for such land, or easements over or across such lands,~~ shall~~ must be paid to the state treasurer, who shall credit such payments to the general fund of the State of South Dakota, unless such funds are otherwise specifically dedicated by law.

Section 27. That § 5-9-15 be AMENDED:

5-9-15. The commissioner of school and public lands shall, on receipt of a report that a tract has been sold, if the land is to be paid for in installments, ~~cause to be prepared~~ prepare a contract of sale for such tract in duplicate, according to a form which the commissioner shall prescribe, and shall submit the same to the Governor for ~~his~~ approval. Should the Governor approve the sale, ~~he~~ the Governor shall certify ~~to~~ such approval and the commissioner shall ~~thereupon~~ execute the same. The approval of the Governor and one copy of such contract shall be filed in the office of the commissioner, and the other copy of the contract shall be forwarded to the purchaser after the expiration of sixty days from the date of sale and a copy of the final abstract of sale shall be forwarded to the county auditor for use as noted in § 5-9-28.

Section 28. That § 12-20-46 be AMENDED:

12-20-46. The Governor, or ~~his~~ the Governor's designee, the ~~Chief Justice~~ chief justice of the Supreme Court, or ~~his~~ the chief justice's designee, and the secretary of state, in the presence of the attorney general shall constitute a board of canvassers to canvass the returns of the votes for representatives in Congress, United States Senators, and for electors of President and vice president of the United States and all state officers, members of the State Legislature, constitutional amendments, initiated measures, and referred laws, but no member thereof shall take part in canvassing the votes for any office for which he is a candidate.

Section 29. That § 21-36-5 be AMENDED:

21-36-5. If the Governor of this state ~~shall have~~ has reason to believe that any real or personal property has escheated through defect of other heirs, ~~he~~ the Governor may direct the attorney general or any state's attorney of any county in which the whole or any part thereof is situated to institute ~~such~~ proceedings ~~as may be~~ necessary and proper to protect and enforce the rights of the state with respect thereto.

Section 30. That § 23-24-4 be AMENDED:

23-24-4. When a demand ~~shall be~~ is made upon the Governor of this state by the executive authority of another state for the surrender of a person ~~so~~ charged with a crime, the Governor may call upon the attorney general or any prosecuting officer in this state to investigate or assist in investigating the demand, and to report to ~~him~~ the Governor the situation and circumstances of the person so demanded, and whether ~~he~~ the person ought to be surrendered.

Section 31. That § 23-24-8 be AMENDED:

23-24-8. If the Governor decides that the demand should be complied with, ~~he~~ the Governor shall sign a warrant of arrest, ~~which shall be~~ sealed with the state seal, and ~~be directed~~ direct it to any peace officer or other person whom ~~he may think fit to entrust~~ the Governor entrusts with the execution thereof. The warrant must substantially recite the facts necessary to the validity of its issuance.

Section 32. That § 23-24-21 be AMENDED:

23-24-21. If a criminal prosecution has been instituted against such person under the laws of this state and is still pending, the Governor~~, in his discretion, either may~~ may either surrender ~~him~~ the person on demand of the executive authority of another state, or hold ~~him~~ the person until ~~he~~ the person has been tried and discharged or convicted and punished in this state.

Section 33. That § 23-24-23 be AMENDED:

23-24-23. The Governor may recall ~~his~~ the Governor's warrant of arrest or may issue another warrant whenever ~~he~~ the Governor deems proper.

Section 34. That § 23-24-28 be AMENDED:

23-24-28. Whenever the Governor of this state ~~shall demand~~ demands a person charged with a crime or with escaping from confinement or breaking the terms of ~~his~~ bail, probation, or parole in this state, from the executive authority of any other state, or from the ~~Chief Justice~~ chief justice or an associate justice of the Supreme Court of the District of Columbia authorized to receive such demand under the laws of the United States, ~~he~~ the Governor shall issue a warrant under

the seal of this state, to some agent, commanding ~~him~~ the agent to receive the person so charged if delivered to ~~him~~ the agent and convey ~~him~~ the person to the proper officer of the county in this state in which the offense was committed.

Section 35. That § 23-24A-12 be AMENDED:

23-24A-12. The appropriate officer of the jurisdiction in which an untried indictment, information, or complaint is pending ~~shall be~~ is entitled to have a prisoner against whom ~~he~~ the officer has lodged a detainer and who is serving a term of imprisonment in any party state made available in accordance with § 23-24A-17 upon presentation of a written request for temporary custody or availability to the appropriate authorities of the state in which the prisoner is incarcerated~~:~~, provided that the court, having jurisdiction of such indictment, information, or complaint ~~shall have~~ has duly approved, recorded, and transmitted the request~~:~~, and provided ~~further~~ that there ~~shall be~~ is a period of thirty days after receipt by the appropriate authorities before the request ~~be~~ is honored, ~~within~~ during which period the Governor of the sending state may disapprove the request for temporary custody or availability, either upon ~~his~~ the Governor's own motion or upon motion of the prisoner~~; and, the~~. The prisoner shall receive immediate notice of a request and shall be informed of his right to petition the Governor of the sending state to disapprove the request.

Section 36. That § 32-13-1 be AMENDED:

32-13-1. The Governor shall administer the highway safety program within this state and authorize, direct, and coordinate existing and future activities of agencies of this state and its political subdivisions in ~~such~~ the program. ~~He~~ The Governor shall do all things necessary to the administration of the program under the Federal Highway Safety Act of 1966 ~~(~~, Public Law 89-564~~)~~, as amended and in effect on July 1, 1984.

Section 37. That § 34-48A-6 be AMENDED:

34-48A-6. Whenever the Governor ~~in pursuance~~, pursuant to § 34-48A-5 ~~shall declare~~, declares an emergency or disaster to exist within the state, ~~he~~ the Governor may authorize and direct the resources of any political subdivision of the state or of any department, commission, or agency of the state to assist another political subdivision with such resources.

Section 38. That § 46A-1-7 be AMENDED:

46A-1-7. The Board of Water and Natural Resources shall establish the statewide policy on all multi-purpose water facilities~~,~~ and shall maintain readiness to recommend significant factors to the Governor or ~~his~~ a designated representative of the Governor concerning official comments on behalf of the State of South Dakota pursuant to any requirements of federal law.

Section 39. That § 46A-15-6 be AMENDED:

46A-15-6. South Dakota's Pick-Sloan settlement framework shall consist of short-term objectives enumerated in this section, long-term objectives pursuant to § 46A-15-7, and the Missouri River cost recovery program pursuant to § 46A-15-9. The short-term objectives shall include, at federal expense, the projects and total project costs enumerated in this section, subject to nonfederal cost-sharing requirements established by Congress and agreed to by the Governor or ~~his~~ a designated ~~agents~~ agent of the Governor and the appropriate local project sponsors. The short-term objectives and the estimated 1986 costs, subject to adjustments as needed, to achieve such objectives are as follows:

(1) Completion of the following projects already under construction:

(a) The Belle Fourche Irrigation Rehabilitation Project at forty-two million two hundred thousand dollars remaining total cost;

(b) The WEB Rural Water Development Project at twenty-five million dollars remaining total cost;

(2) Development of the following projects proposed for construction, for which planning has been completed:

(a) The Lake Andes-Wagner/Yankton Sioux (Marty II) Irrigation Project at one hundred sixty-five million dollars total cost;

(b) The Mni Wiconi Rural Water System at one hundred million dollars total cost;

(3) Development of the following projects proposed for construction for which further planning is required:

(a) Multipurpose water supply and irrigation features of the Gregory County Hydroelectric Pumped Storage Facility at one hundred million dollars total cost;

(b) James River Flood Control at twenty million dollars total cost;

(c) The Mid-Dakota Rural Water System at one hundred million dollars total cost;

(d) Missouri River Fish and Wildlife Mitigation at thirty-five million dollars total cost;

(e) Missouri River Streambank Erosion Control at seventy-five million dollars total cost;

(f) Integration into the Pick-Sloan program for Missouri River Riverside Irrigation Projects at five million dollars for federal study purposes, subject to recommendation by the Missouri River Cost Recovery Authority;

(g) Rural and municipal water systems at one hundred million dollars total cost; and

(h) Lewis and Clark Rural Water System at one hundred million dollars total cost.

Signed March 14, 2023

Chapter 4

(Senate Bill 179)

An Act to revise provisions related to the South Dakota Science and Technology Authority.

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

Section 1. That § 1-16H-5 be AMENDED:

1-16H-5. The governing and administrative powers of the authority are vested in its board of directors, consisting of seven voting members ~~and the~~. The

president of the South Dakota School of Mines and Technology ~~as an~~ and the president of Black Hills State University are ex-officio, nonvoting ~~member~~ members. The Governor shall appoint the voting members, with the advice and consent of the Senate. Not all voting members of the board may be of the same political party. The terms of the voting members of the board ~~shall be~~ are six years. Members of the board may serve more than one term.

Section 2. That § 1-16H-15 be AMENDED:

1-16H-15. The authority may:

(1) Have perpetual succession as a body politic and corporate exercising essential public functions;

(2) Sue and be sued in its own name;

(3) Have an official seal and alter the seal at will;

(4) Maintain an office at such places within the state as the authority may designate;

(5) Make and execute contracts and all other instruments necessary or convenient for the performance of its duties and the exercise of its powers and functions under this chapter;

(6) Employ fiscal consultants, engineers, attorneys, and such other consultants and employees as may be required and contract with agencies of the state to provide staff and support services;

(7) Procure insurance against any loss in connection with its property and other assets, including loans and notes in such amounts and from such insurers as it may deem advisable;

(8) Borrow money and issue bonds as provided by this chapter;

(9) Procure insurance, letters of credit, guarantees, or other credit enhancement arrangements from any public or private entities, including any department, agency, or instrumentality of the United States or the state, for payment of all or any portion of any bonds issued by the authority, including the power to pay premiums, fees, or other charges on any such insurance, letters of credit, guarantees, or credit arrangements;

(10) Receive and accept from any source financial aid or contributions of moneys, property, labor, or other things of value to be held, used, and applied to carry out the purposes of this chapter subject to the conditions upon which the grants or contributions are made, including, gifts or grants from any department, agency, or instrumentality of the United States for any purpose consistent with the provisions of this chapter;

(11) Provide technical assistance to local public bodies and to profit and nonprofit entities to foster and facilitate scientific and technological investigation, experimentation, and development;

(12) Collaborate with Black Hills State University and the South Dakota School of Mines and Technology to provide educational and outreach opportunities;

(13) To the extent permitted under its contract with the holders of bonds of the authority, consent to any modification with respect to the rate of interest, time, and payment of any installment of principal or interest, or any other term of any contract, loan, loan note, loan note commitment, contract, lease, or agreement of any kind to which the authority is a party;

~~(13)~~(14) To make loans and grants to, and enter into financing agreements with, any governmental agency or any person for the costs incurred in connection with the development, construction, acquisition, improvement, maintenance, operation, or decommissioning of a project, or for the maintenance of the physical or structural integrity of real or personal property incorporated or which may be incorporated into a project, in accordance with a written agreement between the authority and such governmental agency or person. However, no such loan or grant may exceed the total cost of such project as determined by the governmental agency or person and approved by the authority;

~~(14)~~(15) Cooperate with and exchange services, personnel, and information with any governmental agency;

~~(15)~~(16) Enter into agreements for management on behalf of the authority of any of its properties upon such terms and conditions as may be mutually agreeable;

~~(16)~~(17) Sell, exchange, lease, donate, and convey any of its properties whenever the authority finds such action to be in furtherance of the purposes for which it was organized;

~~(17)~~(18) Acquire, hold, lease, and dispose of real and personal property, and construct, develop, maintain, operate, and decommission projects for the purposes for which the authority was created;

~~(18)~~(19) Indemnify any person or governmental agency for such reasonable risks as the authority deems advisable if the indemnification is a condition of a grant, gift, or donation to the authority. However, any such obligation to indemnify may only be paid from insurance or from revenues of the authority, and such obligation does not constitute a debt or obligation of the State of South Dakota; and

~~(19)~~(20) Do any act and execute any instrument which in the authority's judgment is necessary or convenient to the exercise of the powers granted by this chapter or reasonably implied from it.

Signed March 6, 2023

Chapter 5

(Senate Bill 162)

An Act to revise public meeting requirements.

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

Section 1. That § 1-25-1 be AMENDED:

1-25-1. The official meetings of the state and its political subdivisions are open to the public unless a specific law is cited by the state or the political subdivision to close the official meeting to the public.

It is not an official meeting of one public body if its members provide information or attend the official meeting of another public body for which the notice requirements of § 1-25-1.1 or 1-25-1.3 have been met. It is not an official meeting of a public body if its members attend a press conference called by a representative of the public body.

For any event hosted by a nongovernmental entity to which a quorum of the public body is invited and public policy may be discussed, but the public body does not control the agenda, the political subdivision may post a public notice of a quorum, in lieu of an agenda. The notice of a quorum shall meet the posting requirements of § 1-25-1.1 or 1-25-1.3 and shall contain, at a minimum, the date, time, and location of the event.

The public body shall reserve at every ~~regularly scheduled~~ official meeting a period for public comment, limited at the public body's discretion as to the time allowed for each topic and the total time allowed for public comment, but not so limited as to provide for no public comment. ~~At a minimum, public comment shall be allowed at regularly scheduled official meetings which are designated as regular meetings by statute, rule, or ordinance.~~

Public comment is not required at official meetings held solely for the purpose of meeting in executive session, an inauguration, swearing in of newly elected officials, or presentation of an annual report to the governing body, regardless of whether ~~or not such~~ the activity takes place at the time and place usually reserved for ~~a regularly scheduled~~ an official meeting.

If a quorum of township supervisors, road district trustees, or trustees for a municipality of the third class meet solely for purposes of implementing previously publicly adopted policy~~,~~; carrying out ministerial functions of that township, district, or municipality~~,~~; or undertaking a factual investigation of conditions related to public safety~~,~~; the meeting is not subject to the provisions of this chapter.

A violation of this section is a Class 2 misdemeanor.

Signed February 27, 2023

Chapter 6

(Senate Bill 53)

An Act to exempt records regarding jail inmate disciplinary matters from public inspection and copying.

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

Section 1. That § 1-27-1.5 be AMENDED:

1-27-1.5. The following records are not subject to §§ 1-27-1, 1-27-1.1, 1-27-1.3, and § 1-27-1.23:

(1) Personal information in records regarding any student, prospective student, or former student of any educational institution if such records are maintained by and in the possession of a public entity, other than routine directory information specified and made public in accordance with 20 U.S.C. § 1232g as the law existed on January 1, 2009;

(2) Medical records, including all records of drug or alcohol testing, treatment, or counseling, other than records of births and deaths. This ~~law~~ subdivision in no way abrogates or changes existing state and federal law pertaining to birth and death records;

(3) Trade secrets, the specific details of bona fide research, applied research, or scholarly or creative artistic projects being conducted at a school,

postsecondary institution, or laboratory funded in whole or in part by the state, and other proprietary or commercial information which if released would infringe intellectual property rights, give advantage to business competitors, or serve no material public purpose;

(4) Records which consist of attorney work product or which are subject to any privilege recognized in article V of chapter 19-19;

(5) Records developed or received by law enforcement agencies and other public bodies charged with duties of investigation or examination of persons, institutions, or businesses, if the records constitute a part of the examination, investigation, intelligence information, citizen ~~complaints or inquiries~~ complaint or inquiry, informant identification, or strategic or tactical information used in law enforcement training. ~~However, this~~This subdivision does not apply to records so developed or received relating to the presence of and amount or concentration of alcohol or drugs in any body fluid of any person, and this subdivision does not apply to a 911 recording or a transcript of a 911 recording if the agency or a court determines that the public interest in disclosure outweighs the interest in nondisclosure. This law in no way abrogates or changes §§ 23-5-7 and 23-5-11 or testimonial privileges applying to the use of information from confidential informants;

(6) Appraisals or appraisal information and negotiation records concerning the purchase or sale, by a public body, of any interest in real or personal property;

(7) Personnel information other than salaries and routine directory information. ~~However, this~~This subdivision does not apply to the public inspection or copying of any current or prior contract with any public employee and any related document that specifies the consideration to be paid to the employee;

(8) Information pertaining to the protection of public or private property and any person on or within public or private property including:

(a) Any vulnerability assessment or response plan intended to prevent or mitigate criminal acts;

(b) Emergency management or response;

(c) Public safety information that would create a substantial likelihood of endangering public safety or property, if disclosed;

(d) Cyber security plans, computer or communications network schema, passwords, or user identification names;

(e) Guard schedules;

(f) Lock combinations; and

(g) Any blueprint, building plan, or infrastructure record regarding any building or facility that would expose or create vulnerability through disclosure of the location, configuration, or security of critical systems of the building or facility;

(9) The security standards, procedures, policies, plans, specifications, diagrams, access lists, and other security-related records of the Gaming Commission and those persons or entities with which the commission has entered into contractual relationships. Nothing in this subdivision allows the commission to withhold from the public any information relating to amounts paid persons or entities with which the commission has entered

into contractual relationships, amounts of prizes paid, the name of the prize winner, and the municipality, or county where the prize winner resides;

(10) Personally identified private citizen account payment information, credit information on others supplied in confidence, and customer lists;

(11) Records or portions of records kept by a publicly funded library which, when examined with or without other records, reveal the identity of any library patron using the library's materials or services;

(12) Correspondence, memoranda, calendars or logs of appointments, working papers, and records of telephone calls of public officials or employees;

(13) Records or portions of records kept by public bodies which would reveal the location, character, or ownership of any known archaeological, historical, or paleontological site in South Dakota if necessary to protect the site from a reasonably held fear of theft, vandalism, or trespass. This subdivision does not apply to the release of information for the purpose of scholarly research, examination by other public bodies for the protection of the resource or by recognized tribes, or the federal Native American Graves Protection and Repatriation Act;

(14) Records or portions of records kept by public bodies which maintain collections of archeological, historical, or paleontological significance which nongovernmental donors have requested to remain closed or which reveal the names and addresses of donors of such articles of archaeological, historical, or paleontological significance unless the donor approves disclosure, except as the records or portions thereof may be needed to carry out the purposes of the federal Native American Graves Protection and Repatriation Act and the Archeological Resources Protection Act;

(15) Employment applications and related materials, except for applications and related materials submitted by individuals hired into executive or policymaking positions of any public body;

(16) Social security numbers; credit card, charge card, or debit card numbers and expiration dates; passport numbers~~,~~; driver license numbers; or other personally identifying numbers or codes; and financial account numbers supplied to state and local governments by citizens or held by state and local governments regarding employees or contractors;

(17) Any emergency or disaster response plans or protocols, safety or security audits or reviews, or lists of emergency or disaster response personnel or material; any location or listing of weapons or ammunition; nuclear, chemical, or biological agents; or other military or law enforcement equipment or personnel;

(18) Any test questions, scoring keys, results, or other examination data for any examination to obtain licensure, employment, promotion or reclassification, or academic credit;

(19) Personal correspondence, memoranda, notes, calendars or appointment logs, or other personal records or documents of any public official or employee;

(20) Any document declared closed or confidential by court order, contract, or stipulation of the parties to any civil or criminal action or proceeding, except as provided under § 1-27-1.23;

(21) Any list of names or other personally identifying data of occupants of camping or lodging facilities from the Department of Game, Fish and Parks;

(22) Records which, if disclosed, would constitute an unreasonable release of personal information;

(23) Records which, if released, could endanger the life or safety of any person;

(24) Internal agency record or information received by agencies that are not required to be filed with such agencies, if the records do not constitute final statistical or factual tabulations, final instructions to staff that affect the public, or final agency policy or determinations, or any completed state or federal audit and if the information is not otherwise public under other state law, including chapter 15-15A and § 1-26-21;

(25) Records of individual children regarding commitment to the Department of Corrections pursuant to chapters 26-8B and 26-8C;

(26) Records regarding inmate disciplinary matters pursuant to § 1-15-20, and records regarding jail inmate disciplinary matters pursuant to § 24-11-23;

(27) Any other record made closed or confidential by state or federal statute or rule or as necessary to participate in federal programs and benefits;

(28) A record of a settlement agreement or litigation regarding investment or bankruptcy and involving the South Dakota Investment Council or the South Dakota Retirement System, or both, unless the settlement or litigation results in a finding of liability against the council or system, or both; and

(29) A record of a settlement agreement or litigation regarding medical services involving any county hospital established under chapter 34-8 or any municipal hospital established under chapter 34-9.

Signed March 20, 2023

Chapter 7

(Senate Bill 10)

An Act to expand certification options for interpreters for the deaf.

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

Section 1. That § 1-36A-10.5 be AMENDED:

1-36A-10.5. ~~Any~~ A person may be ~~certified~~ registered as a certified interpreter for the deaf if ~~the~~ :

(1) The person is certified by~~,~~ and in good standing with~~, at least one of the following and the Department of Human Services finds such certification has met minimum competency standards as established by rules promulgated pursuant to chapter 1-26~~:

~~(1) Certified by the Registry of Interpreters for the Deaf;~~

~~(2) Certified by the National Association of the Deaf;~~

~~(3) Certified by the Educational Interpreters Proficiency Assessment with a score of at least 3.5; or~~

~~(4) Certified by the Department of Human Services prior to July 1, 2006~~

(a) The Registry of Interpreters for the Deaf;

(b) The National Association of the Deaf;

(c) The Educational Interpreter Performance Assessment Center, with a score of at least 3.5; or

(d) Any other entity approved by the Department of Human Services; and

(2) The department finds that the certification offered by an entity referenced in subdivision (1) of this section meets the minimum competency standards established by rules promulgated by the department, in accordance with chapter 1-26.

A person ~~certified pursuant to subdivision (4) may continue this certification only if the person~~ may also be registered if the person was certified by the department, prior to July 1, 2006, provided the person maintains registration, completes eighty continuing education contact hours every four years~~,~~ and remains in good standing with the department~~, and registers annually with the department~~.

Any person certified pursuant to this section shall register annually with the department.

Signed February 22, 2023

LEGISLATURE AND STATUTES

Chapter 8

(Senate Bill 113)

An Act to establish and modify provisions related to initiated petitions.

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

Section 1. That § 2-1-1.1 be AMENDED:

2-1-1.1. ~~The~~ A petition as it is to be circulated for an initiated amendment to the Constitution ~~shall~~ must be filed with the secretary of state, including an electronic copy of the petition ~~as it is to be circulated~~, prior to circulation for signatures and ~~shall~~ at least one year before the next general election at which the initiated amendment is proposed to be submitted to the voters. The petition filing must:

(1) Contain the full text of the initiated amendment in fourteen-point font;

(2) Contain the date of the general election at which the initiated amendment is to be submitted;

(3) Contain the title and explanation as prepared by the attorney general;

(4) Be accompanied by a notarized affidavit form signed by each person who is a petition sponsor that includes the name and address of each petition sponsor; and

(5) Be accompanied by a statement of organization as provided in § 12-27-6.

Each petition circulator shall provide to each person who signs the petition a form containing the title and explanation of the initiated amendment to the Constitution as prepared by the attorney general; any fiscal note prepared pursuant to § 2-9-30; the name, phone number, and email address of each petition sponsor; and a statement whether the petition circulator is a volunteer or paid petition circulator and, if a paid circulator, the amount the circulator is being paid. The form ~~shall~~ must be approved by the secretary of state prior to circulation. The petition form, as prescribed by the State Board of Elections, ~~shall~~ must include the paid circulator identification number within the verification of any paid circulator.

For any initiated amendment petition, no signature may be obtained more than twenty-four months preceding the general election that was designated at the time of filing of the full text. ~~The initiated amendment petition shall be filed with the secretary of state at least one year before the next general election.~~ A sworn affidavit, signed by at least two-thirds of the petition sponsors, stating that the documents filed constitute the entire petition and to the best of the knowledge of the sponsors contains a sufficient number of signatures shall also be filed with the secretary of state. The initiated amendment petition signatures must be filed with the secretary of state by the first Tuesday in May of a general election year for the initiated amendment to qualify for submission to the voters at the next general election. The form of the petition otherwise, including petition size and petition font size for ballot measure language not prescribed in this section, and the affidavit ~~shall~~ must be prescribed by the State Board of Elections.

Section 2. That § 2-1-1.2 be AMENDED:

2-1-1.2. ~~The~~ A petition as it is to be circulated for an initiated measure ~~shall~~ must be filed with the secretary of state, including an electronic copy of the petition ~~as it is to be circulated~~, prior to circulation for signatures and ~~shall~~ at least one year before the next general election at which the initiated measure is proposed to be submitted to the voters. The petition filing must:

(1) Contain the full text of the initiated measure in fourteen-point font;

(2) Contain the date of the general election at which the initiated measure is to be submitted;

(3) Contain the title and explanation as prepared by the attorney general;

(4) Be accompanied by a notarized affidavit form signed by each person who is a petition sponsor that includes the name and address of each petition sponsor; and

(5) Be accompanied by a statement of organization as provided in § 12-27-6.

Each petition circulator shall provide to each person who signs the petition a form containing the title and explanation of the initiated measure as prepared by the attorney general; any fiscal note prepared pursuant to § 2-9-30; the name, phone number, and email address of each petition sponsor; a statement whether the petition circulator is a volunteer or paid petition circulator and, if a paid circulator, the amount the circulator is being paid. The form ~~shall~~ must be approved by the secretary of state prior to circulation. The petition form, as prescribed by the State Board of Elections, ~~shall~~ must include the paid circulator identification number within the verification of any paid circulator.

For any initiated measure petition, no signature may be obtained more than twenty-four months preceding the general election that was designated at the time of filing of the full text. ~~The initiated measure petition shall be filed with the secretary of state at least one year before the next general election.~~ A sworn affidavit, signed by at least two-thirds of the petition sponsors stating that the documents filed constitute the entire petition and to the best of the knowledge of the sponsors contains a sufficient number of signatures ~~shall~~ must also be filed with the secretary of state. The initiated measure petition signatures must be filed with the secretary of state by the first Tuesday in May of a general election year for the initiated measure to qualify for submission to the voters at the next general election. The form of the petition otherwise, including petition size and petition font size for ballot measure language not prescribed in this section, and the affidavit ~~shall~~ must be prescribed by the State Board of Elections.

Section 3. That § 2-1-15 be AMENDED:

2-1-15. Upon the receiving of any initiative petition, referred law petition, or initiated constitutional amendment petition, the secretary of state shall promptly examine and catalogue the petition and petition signatures and make them available to the public upon request and payment of reasonable fees in accordance with § 1-8-10. No signature of a person ~~shall~~ may be counted by the secretary of state unless the person is a registered voter in the county indicated on the signature line. No signature of a person ~~shall~~ may be counted if the information required on the petition form is not accurate or complete. The secretary of state shall generate the random sample under § 2-1-16 within five days of completing the examination and cataloguing of the petition signatures and make available to the public ~~the petitions and~~ the random sample validation sheets ~~within thirty days of a~~ upon request and payment of reasonable fees in accordance with § 1-8-10.

Signed March 21, 2023

Chapter 9

(Senate Bill 46)

An Act to enhance the penalty for petition circulation perjury.

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

Section 1. That § 2-1-10 be AMENDED:

2-1-10. Before filing a petition to initiate an amendment to the Constitution, for an initiated measure, or for a referred law, with the officer in whose office the petition is required to be filed, each petition circulator shall sign a verification attesting that ~~the~~:

(1) The circulator personally circulated the petition ~~and~~;

(2) The circulator is not attesting to any signature obtained by any other person~~, that the petition~~;

(3) The circulator is a resident of South Dakota~~, that the~~;

(4) The circulator made reasonable inquiry and, to the best of the circulator's knowledge, each person signing the petition is a qualified voter of the state in the county indicated on the signature line ~~and that no~~ ; and

(5) No state statute regarding the circulation of petitions was knowingly violated.

The State Board of Elections shall prescribe the form for the verification. The circulator's signature on the verification shall be witnessed and notarized by a notary public commissioned in South Dakota or other officer authorized to administer oaths pursuant to § 18-3-1. Any person who falsely attests to the verification provision provided in subdivision (1) is guilty of a Class 6 felony. Any person who falsely attests to the verification ~~under this section~~ provisions provided in subdivisions (2) to (5), inclusive, is guilty of a Class 1 misdemeanor.

Section 2. That § 12-6-8 be AMENDED:

12-6-8. No person may sign the nominating petition of a candidate before January first in the year in which the election is to be held, nor for whom the person is not entitled to vote, nor for a political candidate of a party of which the person is not a member, nor for more than the number of candidates required to be nominated for the same office. The signer or circulator shall add the signer's place of residence and the date of signing. The signer's post office box number may be given in lieu of a street address if the signer lives within a municipality of the second or third class. A formal declaration of the candidate shall be signed by the candidate before the circulation of petitions. The signed declaration of the candidate shall accompany and be a part of the petition. An original signed declaration shall accompany the group of petitions upon filing.

The petition shall be verified under oath by the persons circulating the petition. The verification by the person circulating the petition may not be notarized by the candidate whom the petition is nominating. Any person circulating a petition who falsely attests to the verification is guilty of a Class 6 felony.

A nominating petition for any election shall be a self-contained sheet of paper in order to have the candidate's name placed on the ballot. The provisions of this section may not prohibit a person registered with party affiliation from signing either a petition nominating an independent or a nonpolitical candidate for office if the person has not previously signed a petition for that office to be filled.

Signed March 6, 2023

Chapter 10

(Senate Bill 69)

An Act to modify the composition of the State-Tribal Relations Committee.

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

Section 1. That § 2-6-21 be AMENDED:

2-6-21. The State-Tribal Relations Committee shall consist of five members of the House of Representatives to be appointed by the speaker of the House of Representatives and five members of the Senate to be appointed by the president pro tempore of the Senate. The members of the State-Tribal Relations Committee shall be appointed biennially for terms expiring on January first of each succeeding odd-numbered year and shall serve until their respective successors are appointed and qualified. ~~No more than three from each legislative body may be from the same political party~~ The appointing authority shall appoint members to the committee proportional to a party's representation in the authority's

legislative body. The minority party in each legislative body must have at least one member.

Signed March 14, 2023

Chapter 11

(House Bill 1003)

An Act to repeal provisions requiring prison or jail cost estimates and to declare an emergency.

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

Section 1. That § 2-9-33 be REPEALED:

~~A prison or jail population cost estimate shall be electronically attached to any bill or amendment, except misdemeanor penalties, that may impact the state prison or county jail population. A prison or jail population cost estimate shall be prepared for a bill or amendment with a Class 1 misdemeanor penalty only upon a request authorized by the rules of the Legislature. The requirement for a cost estimate includes each bill or amendment that meets the penalty requirements of this section and that increases the period of imprisonment authorized for an existing crime, that adds a new crime for which imprisonment is authorized, that imposes a minimum or mandatory minimum term of imprisonment, or that modifies any law governing release of a prisoner from imprisonment or supervision.~~

~~The sponsor of the legislation or amendment shall allow sufficient time to prepare a cost estimate from the Legislative Research Council. The cost estimate shall be completed for a bill or amendment before final disposition is taken on the bill or amendment by any standing committee of the Legislature.~~

Section 2. That § 2-9-34 be REPEALED:

~~A cost estimate pursuant to § 2-9-33 shall include:~~

~~(1) An analysis of the specific components that will impact the prison and jail population;~~

~~(2) The projected cost of the impact on the state prison system and the aggregate cost to county jails on an annual basis and cost over a ten year period; and~~

~~(3) Operational costs and capital costs including all manner of construction.~~

Section 3. Whereas, this Act is necessary for the support of the state government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

Signed February 9, 2023

Chapter 12

(House Bill 1002)

An Act to update the official code of laws.

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

Section 1. That § 2-16-13 be AMENDED:

2-16-13. The official code of laws of the State of South Dakota, which may be referred to as the code, consists of all the statutes of a general and permanent nature contained in:

(1) The 2018 revision of volume 1;

(2) The 2021 revision of volume 2;

(3) The 2021 revision of volume 2A;

(4) The 2021 revision of volume 3;

(5) The 2004 revision of volume 4;

(6) The 2004 revision of volume 5;

(7) The 2020 revision of volume 6;

(8) The 2020 revision of volume 7;

(9) The 2018 revision of volume 8;

(10) The 2018 revision of volume 9;

(11) The 2014 revision of volume 10;

(12) The 2014 revision of volume 10A;

(13) The 2014 revision of volume 11;

(14) The 2016 revision of volume 12;

(15) The 2004 revision of volume 13;

(16) The 2017 revision of volume 14;

(17) The 2016 revision of volume 15;

(18) The 2013 revision of volume 16;

(19) The 2016 revision of volume 17;

(20) The 2004 revision of volume 18;

(21) The 2011 revision of volume 19;

(22) The 2011 revision of volume 19A;

(23) The 2011 revision of volume 20;

(24) The 2013 revision of volume 21;

(25) The 2015 revision of volume 22;

(26) The 2015 revision of volume 22A;

(27) The ~~2004~~2022 revision of volume 23;

(28) The ~~2004~~2022 revision of volume 24;

(29) The 2004 revision of volume 25;

(30) The ~~2004~~2022 revision of volume 26;

(31) The 2007 revision of volume 27;

(32) The 2004 revision of volume 28;

(33) The 2017 revision of volume 29;

(34) The 2012 revision of volume 30;

(35) The 2012 revision of volume 31;

(36) The 2019 revision of volume 32;

(37) The 2019 revision of volume 33;

(38) The 2015 revision of volume 34;

(39) The 2004 revision of the Parallel Tables volume;

(40) The December ~~2021~~2022 Interim Update Service of the South Dakota Codified Laws beginning with Title 1, chapter 1-1 and ending with Title 62, chapter 62-9; and

(41) The ~~2021~~2022 cumulative annual pocket parts.

Section 2. That § 2-16-15 be AMENDED:

2-16-15. No provision of the code enacted by § 2-16-13, as to which any action or proceeding, civil or criminal, has been commenced prior to July 1, ~~2022~~2023, to determine whether or not such provision was constitutionally enacted, is validated by the enactment of this code.

The enactment of the code:

(1) Does not affect the validity of any transaction;

(2) Does not impair the curative or legalizing effect of any statute; and

(3) Does not release or extinguish any penalty, confiscation, forfeiture, or liability; which accrued, occurred, or took effect prior to the time the code took effect.

Section 3. That § 2-16-16 be AMENDED:

2-16-16. All statutes, other than this code, enacted at the ~~2022~~2023 session of the Legislature shall be deemed to have been enacted subsequently to the enactment of this code. If any statute repeals, amends, contravenes, or is inconsistent with the provisions of this code, the provisions of the statute shall prevail. Any enactment in the ~~2022~~2023 session of the Legislature that cites South Dakota Codified Laws for the purpose of amendment or repeal shall be construed as having reference to the code enacted by § 2-16-13.

Signed February 9, 2023

PUBLIC OFFICERS AND EMPLOYEES

Chapter 13
(House Bill 1153)

An Act to update travel expenses, moving expenses, and other reimbursements.

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

Section 1. That § 3-9-2.2 be AMENDED:

3-9-2.2. The State Board of Finance may authorize a meal expense reimbursement ~~of~~ at the per diem rate to any agency, state officer, or employee conducting state business at an event extending entirely through a meal time without interruption, regardless of whether the attending officer or employee is away from his or her place of residence or headquarters station. The reimbursement request may be ~~authorized~~ made by an agency representative, state officer, or employee only if the attending officer's or employee's participation in the event is approved by the head of the officer's or employee's department or office~~,~~ and if the event includes provision of a meal for which the agency, officer, or employee is billed ~~and the meal is approved in writing by the department or office head, or by the Governor~~.

The authorization shall be made on a form prescribed by the Governor. A certification of the approval of the department or office head shall accompany the claim filed pursuant to § 3-9-8.

Section 2. That § 3-9-9 be AMENDED:

3-9-9. ~~All~~ A current full-time ~~officers and employees~~ officer or employee, except an elected constitutional ~~officers~~ officer of the State of South Dakota, may receive a household moving allowance ~~as provided by this section~~.

~~If a full-time~~ The officer or employee ~~has been continuously employed by the state for a period of not less than six months and is ordered~~ is eligible for the allowance if the officer or employee is transferred by the department, institution, board, commission, or other state agency to move from ~~a~~ the officer's or employee's headquarter duty station in South Dakota to another headquarter duty station in South Dakota, if the duty stations are at least fifty miles apart. ~~and if such transfer is made at the request and for the benefit of the State of South Dakota, the~~ The officer or employee ~~shall~~ may be ~~reimbursed for household moving expenses incurred, as approved by the state auditor~~ paid up to an amount equal to three months of the officer's or employee's salary but not to exceed fifteen thousand dollars. The amount must be provided by the agency head in the offer letter to the officer or employee.

Section 3. That § 3-9-10 be AMENDED:

3-9-10. Each officer or employee who may be entitled to ~~reimbursement~~ an allowance under § 3-9-9 or 3-9-12 shall submit a claim voucher ~~supported with evidence of actual~~ to the state auditor with an application for payment of the household moving ~~expenses~~ allowance and a copy of the ~~official action~~ offer letter of the department, institution, board, commission, or other state agency authorizing the ~~move and showing a justifiable need for such moving~~ transfer or

hire. A household moving allowance application must be made on a form prescribed by the Governor and requires the approval of the department head.

Section 4. That § 3-9-12 be AMENDED:

3-9-12. For the purpose of assisting in the recruitment of ~~professional staff, it is the policy of the State of South Dakota that such persons may be reimbursed for travel and moving expenses. The travel expenses may include the expenses of the person being recruited and the immediate family who are members of the household. The moving expense may include household goods only to the assigned headquarter duty station in South Dakota from the individual's residence~~ new state employees, a person being recruited, if the person is not a current state employee, may receive a household moving allowance for moving greater than fifty miles to the person's headquarter duty station in the same manner and amount as established in § 3-9-9 for the transfer of state employees. ~~However, in no event may the reimbursement be in excess of one month's salary.~~

Signed March 17, 2023

Chapter 14

(House Bill 1009)

An Act to update and clarify certain provisions relating to the South Dakota Retirement System.

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

Section 1. That § 3-12C-101 be AMENDED:

3-12C-101. Terms as used in this chapter mean:

(1) "Actuarial accrued liability," the present value of all benefits less the present value of future normal cost contributions;

(2) "Actuarial experience analysis," a periodic report that reviews basic experience data and furnishes actuarial analysis that substantiates the assumptions adopted for the purpose of making an actuarial valuation of the system;

(3) "Actuarial valuation," a projection of the present value of all benefits and the current funded status of the system, based upon stated assumptions as to rates of interest, mortality, disability, salary progressions, withdrawal, and retirement as established by a periodic actuarial experience analysis that takes into account census data of all active members, vested terminated members, and retired members and their beneficiaries under the system;

(4) "Actuarial value funded ratio," the actuarial value of assets divided by the actuarial accrued liability;

(5) "Actuarial value of assets," equal to the fair value of assets;

(6) "Actuarially determined contribution rate," the fixed, statutory contribution rate, no less than the normal cost rate with expenses assuming the minimum COLA, and no greater than the normal cost rate with expenses assuming the maximum COLA;

(7) "Air rescue firefighters," employees of the Department of the Military who are stationed at Joe Foss Field, Sioux Falls, and who are directly involved in firefighting activities on a daily basis;

(8) "Approved actuary," any actuary who is a member of the American Academy of Actuaries or an Associate or a Fellow of the Society of Actuaries who meets the qualification standards of the American Academy of Actuaries to issue actuarial opinions regarding the system or any firm retaining such an actuary on its staff and who is appointed by the board to perform actuarial services;

(9) "Assumed rate of return," the actuarial assumption adopted by the board pursuant to § 3-12C-227 as the annual assumed percentage return on trust fund assets, compounded;

(10) "Beneficiary," the person designated by a member of the system to receive any payments after the death of such member;

(11) "Benefits," the amounts paid to a member, spouse, child, or beneficiary as a result of the provisions of this chapter;

(12) "Board," the Board of Trustees of the South Dakota Retirement System;

(13) "Calendar quarter," a period of three calendar months ending March thirty-first, June thirtieth, September thirtieth, or December thirty-first of any year;

(14) "Campus security officers," employees of the Board of Regents whose positions are subject to the minimal educational training standards established by the law enforcement standards commission pursuant to chapter 23-3, who satisfactorily complete the training required by chapter 23-3 within one year of employment, and whose primary duty as sworn law enforcement officers is to preserve the safety of the students, faculty, staff, visitors, and the property of the university. The employer shall file with the system evidence of the appointment as a sworn law enforcement officer at the time of employment and shall file evidence of satisfactory completion of the training program pursuant to chapter 23-3 within one year of employment;

(15) "Certified school employee," any employee of a participating unit who is required to have a certificate as defined in subdivision 13-42-1(3);

(16) "Class A credited service," service credited as a Class A member of the system;

(17) "Class A member," any member other than a Class B member or a Class C member and is either a foundation member or a generational member;

(18) "Class B credited service," service credited as a Class B member of the system;

(19) "Class B member," a member who is a justice, judge, state law enforcement officer, magistrate judge, police officer, firefighter, county sheriff, deputy county sheriff, correctional security staff, parole agent, air rescue firefighter, campus security officer, court services officer, juvenile corrections agent, gaming enforcement agent, conservation officer, or park ranger and is either a foundation member or a generational member;

(20) "Class C credited service," service credited as a Class C member of the system;

(21) "Class C member," any member of the cement plant retirement plan including any retiree or any vested member;

(22) "Class D credited service," service credited as a Class D member of the system;

(23) "Class D member," any member that was a member of the Department of Labor and Regulation employees' retirement plan as of June 30, 2020;

(24) "Classified employee," an employee of a public school district who is not required by law to be a certified school employee, an employee of any college or university under the control of the Board of Regents who is not a faculty member or an administrator and comes within the provisions of chapter 3-6D, an employee of a public corporation, an employee of a chartered governmental unit, and any other participating employee not elsewhere provided for in this chapter;

(25) "Comparable level position," a member's position of employment that is generally equivalent to the member's prior position of employment in terms of required education, required experience, required training, required work history, geographic location, and compensation and benefits;

(26) "Conservation officers," employees of the Department of Game, Fish and Parks and the Division of Wildlife or Division of Custer State Park who are employed pursuant to § 41-2-11 and whose positions are subject to the requirements as to education and training provided in chapter 23-3;

(27) "Consumer price index," the consumer price index for urban wage earners and clerical workers calculated by the United States Bureau of Labor Statistics;

(28) "Contributory service," service to a participating unit during which contributions were made to a South Dakota retirement system, which may not include years of credited service as granted in § 3-12C-509 or 3-12C-511;

(29) "Correctional security staff," the warden, deputy warden, and any other correctional staff holding a security position as verified by the Department of Corrections and approved by the Bureau of Human Resources and the Bureau of Finance and Management, and determined by the board as Class B members;

(30) "Court services officers," persons appointed pursuant to § 26-7A-8;

(31) "Covered employment," a member's employment as a full-time employee of a participating unit;

(32) "Deputy county sheriff," an employee of a county that is a participating unit, appointed by the board of county commissioners pursuant to §§ 7-12-9 and 7-12-10, whose position is subject to the minimum educational and training standards established by the law enforcement standards commission pursuant to chapter 23-3. The term does not include jailers or clerks appointed pursuant to §§ 7-12-9 and 7-12-10 unless the participating unit has requested that the jailer be considered as a deputy county sheriff and the board has approved the request;

(33) "Effective date of retirement," the first day of the month in which retirement benefits are payable;

(34) "Eligible retirement plan," the term eligible retirement plan includes those plans described in section 402(c)(8)(B) of the Internal Revenue Code;

(35) "Eligible rollover distribution," any distribution to a member of accumulated contributions pursuant to § 3-12C-602. The term does not

include any portion of a distribution that represents contributions made to the system on an after tax basis nor distributions paid as a result of the member reaching the required beginning date;

(36) "Employer," the State of South Dakota and any department, bureau, board, or commission of the State of South Dakota, or any of its governmental or political subdivisions or any public corporation of the State of South Dakota that elects to become a participating unit;

(37) "Employer contributions," amounts contributed by the employer of a contributing member, excluding member contributions made by an employer after June 30, 1984, pursuant to § 3-12C-401;

(38) "Equivalent public service," any public service other than as a justice, a judge, or a magistrate judge and comparable to Class B service as defined by this section, if the service is in the employ of a public entity that is not a participating unit;

(39) "Fair value of assets," the total assets of the system at fair market value for securities traded on exchanges; for securities not traded on exchanges, a value based on similar securities; and for alternative investments, reported net asset value;

(40) "Fair value funded ratio," the fair value of assets divided by the actuarial accrued liability;

(41) "Fiduciary," any person who exercises any discretionary authority or control over the management of the system or the management or disposition of its assets, renders investment advice for a fee or other compensation, direct or indirect, or has any authority or responsibility to do so, or has any discretionary authority or responsibility in the administration of the system;

(42) "Foundation member," any member of the system whose contributory service began before July 1, 2017;

(43) "Foundation retiree," any foundation member who has retired with a benefit payable from the system;

(44) "Firefighter," any full-time firefighter who works at least twenty hours a week and at least six months a year. The term does not include any volunteer firefighter;

(45) "Full-time employee," any employee who is considered full-time by the participating unit and is customarily employed by the participating unit for twenty hours or more a week and at least six months a year, regardless of classification of employment as seasonal, temporary, leased, contract, or any other designation;

(46) "Fund," public employees' retirement fund or funds established for the purposes of administration of this chapter;

(47) "Gaming enforcement agent," any employee of the South Dakota Commission on Gaming who is appointed pursuant to § 42-7B-56 and who must, as a condition of employment, be law enforcement certified;

(48) "General employee," any full-time municipal employee who is not a firefighter or a police officer;

(49) "Generational member," any member of the system whose contributory service began after June 30, 2017;

(50) "Generational retiree," any generational member who has retired with a benefit payable from the system;

(51) "Health care provider," a physician or other health care practitioner licensed, registered, certified, or otherwise authorized by law to provide specified health services;

~~(52) "Internal Revenue Code," or "code," the Internal Revenue Code as in effect as of January 1, 2022;~~

~~(53)~~(52) "Juvenile corrections agent," a designee of the secretary of corrections charged with the care, custody, and control of juveniles committed to the Department of Corrections until the age of twenty-one or a person who is charged with the care, custody, and control of juveniles at a juvenile corrections facility under the control of a participating unit;

~~(54)~~(53) "Law enforcement officer," any agent of the state division of criminal investigation, officer of the South Dakota Highway Patrol, police officer, county sheriff, deputy county sheriff, or firefighter;

~~(55)~~(54) "Member," any person who is contributing or has made contributions to the system and is either a foundation member or generational member. A person's membership ceases when the person withdraws his or her accumulated contributions after termination of employment;

~~(56)~~(55) "Member contributions," amounts contributed by members, including member contributions made by an employer after June 30, 1984, pursuant to § 3-12C-401;

~~(57)~~(56) "Military service," a period of active duty with the United States Army, the United States Navy, the United States Air Force, the United States Marine Corps, or the United States Coast Guard, from which duty the member received an honorable discharge or an honorable release;

~~(58)~~(57) "Municipality," any incorporated municipal government under chapter 9-3 or any chartered governmental unit under the provisions of Article IX of the Constitution of the State of South Dakota;

~~(59)~~(58) "Noncontributory service," for foundation members, service delineated in subdivisions 3-12C-502(2), (5), (7), and (8), and for generational members, service pursuant to § 3-12C-514;

~~(60)~~(59) "Normal cost," the expected long-term cost of the system benefits and expenses expressed as a percentage of payroll;

~~(61)~~(60) "Normal retirement," the termination of employment and application for benefits by a member with three or more years of contributory service or noncontributory service on or after the member's normal retirement age;

~~(62)~~(61) "Other public benefits," eighty percent of the primary insurance amount or primary social security benefits that would be provided under federal social security;

~~(63)~~(62) "Other public service," service for the government of the United States, including military service; service for the government of any state or political subdivision thereof; service for any agency or instrumentality of any of the foregoing; or service as an employee of an association of government entities described in this subdivision;

~~(64)~~(63) "Park rangers," employees of the Department of Game, Fish and Parks within the Division of Parks and Recreation and whose positions are subject to the requirements as to education and training provided in

chapter 23-3 and whose primary duty is law enforcement in the state park system;

~~(65)~~(64) "Parole agent," an employee of the Department of Corrections employed pursuant to § 24-15-14 who is actually involved in direct supervision of parolees on a daily basis;

~~(66)~~(65) "Participating unit," the State of South Dakota and any department, bureau, board, or commission of the State of South Dakota, and any of its political subdivisions or any public corporation of the State of South Dakota that has employees who are members of the retirement system created in this chapter;

~~(67)~~(66) "Plan year," a period extending from July first of one calendar year through June thirtieth of the following calendar year;

~~(68)~~(67) "Police officer," any employee in the police department of any participating municipality holding the rank of patrol officer, including probationary patrol officer, or higher rank and whose position is subject to the minimum educational and training standards established by the law enforcement officers standards commission pursuant to chapter 23-3. The term does not include civilian employees of a police department nor any person employed by a municipality whose services as a police officer require less than twenty hours a week and six months a year. If a municipality which is a participating unit operates a city jail, the participating unit may request that any jailer appointed pursuant to § 9-29-25 be considered a police officer, subject to the approval of the board;

~~(69)~~(68) "Political subdivision" includes any municipality, school district, county, chartered governmental unit, public corporation or entity, and special district created for any governmental function;

~~(70)~~(69) "Present value of all benefits," the present value of all benefits expected to be paid to all retired, terminated, and active members and beneficiaries, based on past and future credited service and future compensation increases;

~~(71)~~(70) "Present value of benefits earned to date," the present value of the benefits currently being paid to retired members and their beneficiaries and the present value of benefits payable at retirement to active members, based on their earnings and credited service to date of the actuarial valuation;

~~(72)~~(71) "Projected compensation," a deceased or disabled member's final average compensation multiplied by the COLA commencing each July first for each complete twelve-month period elapsed between the date of the member's death or disability, whichever occurred earlier, and the date the member would attain normal retirement age or the benefit commences, whichever occurred earlier;

~~(73)~~(72) "Projected service," the credited service plus the service that the member would have been credited with at normal retirement age had the member continued in the system and received credit at the same rate the member was credited during the year covered by the compensation that was used in the calculation of the disability or family benefit;

~~(74)~~(73) "Qualified military service," service in the uniformed services as defined in § 414(u)(5) of the Internal Revenue Code;

~~(75)~~(74) "Required beginning date," the later of April first of the calendar year following the calendar year in which the member attains age seventy and one-half or April first of the calendar year following the calendar year in which the member retires;

~~(76)~~(75) "Retiree," any foundation or generational member who retires with a lifetime benefit payable from the system;

~~(77)~~(76) "Retirement," the severance of a member from the employ of a participating unit with a retirement benefit payable from the system;

~~(78)~~(77) "Retirement benefit," the monthly amount payable upon the retirement of a member;

~~(79)~~(78) "Single premium," the lump-sum amount paid by a supplemental pension participant pursuant to a supplemental pension contract in consideration for a supplemental pension benefit;

~~(80)~~(79) "Social investment," investment, divestment, or prohibition of investment of the assets of the system for purposes other than maximum risk-adjusted investment return, which other purposes include ideological purposes, environmental purposes, political purposes, religious purposes, or purposes of local or regional economic development;

~~(81)~~(80) "State employees," employees of the departments, bureaus, commissions, and boards of the State of South Dakota;

~~(82)~~(81) "Supplemental pension benefit," any single-premium immediate pension benefit payable pursuant to §§ 3-12C-1504 and 3-12C-1505;

~~(83)~~(82) "Supplemental pension contract," any agreement between a participant and the system upon which a supplemental pension is based, including the amount of the single premium, the type of pension benefit, and the monthly supplemental pension payment amount;

~~(84)~~(83) "Supplemental pension contract record," the record for each supplemental pension participant reflecting relevant participant data; a designation of any beneficiary, if any; the amount of the participant's funds rolled into the fund; the provisions of the participant's supplemental pension contract; and supplemental pension payments made pursuant to the contract;

~~(85)~~(84) "Supplemental pension participant," any member who is a retiree receiving a benefit from the system, or, if the member is deceased, the member's surviving spouse who is receiving a benefit from the system, and who chooses to purchase a supplemental pension benefit pursuant to the provisions of this chapter;

~~(86)~~(85) "Supplemental pension spouse," any person who was married to a supplemental pension participant at the time the participant entered into the supplemental pension contract;

~~(87)~~(86) "System," the South Dakota Retirement System created in this chapter;

~~(88)~~(87) "Trustee," a member of the board of trustees;

~~(89)~~(88) "Unfunded actuarial accrued liability," the actuarial accrued liability less the actuarial value of assets.

Section 2. That chapter 3-12C be amended with a NEW SECTION:

For the purposes of this chapter, the term, Internal Revenue Code, or code, means the Internal Revenue Code as in effect as of January 1, 2023.

Section 3. That § 3-12C-509 be AMENDED:

3-12C-509. If a current contributing member ~~of this~~ with at least five years of contributory service in the system has other public service for which the member is not entitled to retirement benefits from another public retirement system, the member may elect to deposit or have deposited on the member's behalf an amount equal to an actuarially-determined percentage times the Class A rate of contribution multiplied by the higher of the member's annual compensation at the time of making the election, or the member's final compensation calculated as if the member retired on the date of the member's election, for each year of other public service for which the member wishes to receive credit as a Class A member.

The member rate in effect as of July 1, 2001, shall be used in calculation of the purchase cost of any service performed prior to July 1, 2002, if a contract to purchase such service was in place prior to July 1, 2004. The member rate in effect on and after July 1, 2002, shall be the basis for calculation of the purchase cost of any service if the contract to purchase such service is not in place until on or after July 1, 2004.

Section 4. That § 3-12C-516 be AMENDED:

3-12C-516. ~~Beginning January 1, 2009, to~~ To the extent required by § 414(u)(12) of the Internal Revenue Code, a member receiving differential wage payments, as defined under § 3401(h)(2) of the Internal Revenue Code, from a member's employer shall be treated as employed by that employer, and the differential wage payment shall be treated as compensation for purposes of calculating final average compensation and applying the limits on annual additions under § 415(c) of the Internal Revenue Code. This provision shall be applied to all similarly situated members in a reasonably equivalent manner.

Section 5. That § 3-12C-1106 be AMENDED:

3-12C-1106. Upon retirement, a foundation member shall receive a normal retirement benefit, commencing at normal retirement age or thereafter as provided in § 3-12C-1113, for Class A credited service, equal to the larger of one and seven-tenths percent of final average compensation for each year of Class A credited service before July 1, 2008, plus one and fifty-five hundredths percent of final average compensation for each year of Class A credited service after July 1, 2008, or two and four-tenths percent of final average compensation for each year of Class A credited service before July 1, 2008, plus two and twenty-five hundredths percent of final average compensation for each year of Class A credited service after July 1, 2008, less other public benefits. For purposes of this section, federal military retirement or federal national guard retirement benefits are not other public benefits. For the purposes of this section, any Class A member ~~who did not participate in federal social security during the~~ with a period of ~~credited service~~ employment with any public employer not covered by federal social security shall be presumed to be entitled to the maximum primary social security benefit permitted at the time of retirement. Class A credited service includes all credited service under this or any of the retirement systems consolidated pursuant to § 3-12C-1601.

Section 6. That § 3-12C-1303 be AMENDED:

3-12C-1303. The variable retirement account is payable to the generational member when the member commences a retirement benefit or a disability benefit ~~or to the generational member's eligible spouse at the death of the member~~. If a generational member dies before commencing a benefit, the variable retirement account is payable at the death of the member to the member's spouse who meets the requirements for an immediate or deferred surviving spouse benefit under § 3-12C-1214 or 3-12C-1215. For the purpose of paying a distribution, the variable retirement account is the amount in the member's variable retirement account or the total of the variable retirement contributions made on behalf of the member, whichever is greater.

The variable retirement account may be paid in a lump sum, rolled over to the South Dakota deferred compensation plan, rolled over to another eligible plan, or used to purchase a supplemental pension benefit.

The variable retirement account is not payable to any member who withdraws his or her accumulated contributions from the system ~~and is not payable in the case of the death of a member without an eligible spouse~~.

Signed March 8, 2023

Chapter 15

(House Bill 1007)

An Act to add emergency medical services personnel to Class B public safety membership of the South Dakota Retirement System.

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

Section 1. That § 3-12C-101 be AMENDED:

3-12C-101. Terms as used in this chapter mean:

(1) "Actuarial accrued liability," the present value of all benefits less the present value of future normal cost contributions;

(2) "Actuarial experience analysis," a periodic report that reviews basic experience data and furnishes actuarial analysis that substantiates the assumptions adopted for the purpose of making an actuarial valuation of the system;

(3) "Actuarial valuation," a projection of the present value of all benefits and the current funded status of the system, based upon stated assumptions as to rates of interest, mortality, disability, salary progressions, withdrawal, and retirement as established by a periodic actuarial experience analysis that takes into account census data of all active members, vested terminated members, and retired members and their beneficiaries under the system;

(4) "Actuarial value funded ratio," the actuarial value of assets divided by the actuarial accrued liability;

(5) "Actuarial value of assets," equal to the fair value of assets;

(6) "Actuarially determined contribution rate," the fixed, statutory contribution rate, no less than the normal cost rate with expenses assuming the minimum COLA, and no greater than the normal cost rate with expenses assuming the maximum COLA;

(7) "Air rescue firefighters," employees of the Department of the Military who are stationed at Joe Foss Field, Sioux Falls, and who are directly involved in firefighting activities on a daily basis;

(8) "Approved actuary," any actuary who is a member of the American Academy of Actuaries or an Associate or a Fellow of the Society of Actuaries who meets the qualification standards of the American Academy of Actuaries to issue actuarial opinions regarding the system or any firm retaining such an actuary on its staff and who is appointed by the board to perform actuarial services;

(9) "Assumed rate of return," the actuarial assumption adopted by the board pursuant to § 3-12C-227 as the annual assumed percentage return on trust fund assets, compounded;

(10) "Beneficiary," the person designated by a member of the system to receive any payments after the death of such member;

(11) "Benefits," the amounts paid to a member, spouse, child, or beneficiary as a result of the provisions of this chapter;

(12) "Board," the Board of Trustees of the South Dakota Retirement System;

(13) "Calendar quarter," a period of three calendar months ending March thirty-first, June thirtieth, September thirtieth, or December thirty-first of any year;

(14) "Campus security officers," employees of the Board of Regents whose positions are subject to the minimal educational training standards established by the law enforcement standards commission pursuant to chapter 23-3, who satisfactorily complete the training required by chapter 23-3 within one year of employment, and whose primary duty as sworn law enforcement officers is to preserve the safety of the students, faculty, staff, visitors, and the property of the university. The employer shall file with the system evidence of the appointment as a sworn law enforcement officer at the time of employment and shall file evidence of satisfactory completion of the training program pursuant to chapter 23-3 within one year of employment;

(15) "Certified school employee," any employee of a participating unit who is required to have a certificate as defined in subdivision 13-42-1(3);

(16) "Class A credited service," service credited as a Class A member of the system;

(17) "Class A member," any member other than a Class B member or a Class C member and is either a foundation member or a generational member;

(18) "Class B credited service," service credited as a Class B member of the system;

(19) "Class B member," a member who is a justice, judge, state law enforcement officer, magistrate judge, police officer, firefighter, county sheriff, deputy county sheriff, correctional security staff, parole agent, air rescue firefighter, emergency medical services personnel, campus security officer, court services officer, juvenile corrections agent, gaming enforcement agent, conservation officer, or park ranger and is either a

foundation member or a generational member;

(20) "Class C credited service," service credited as a Class C member of the system;

(21) "Class C member," any member of the cement plant retirement plan including any retiree or any vested member;

(22) "Class D credited service," service credited as a Class D member of the system;

(23) "Class D member," any member that was a member of the Department of Labor and Regulation employees' retirement plan as of June 30, 2020;

(24) "Classified employee," an employee of a public school district who is not required by law to be a certified school employee, an employee of any college or university under the control of the Board of Regents who is not a faculty member or an administrator and comes within the provisions of chapter 3-6D, an employee of a public corporation, an employee of a chartered governmental unit, and any other participating employee not elsewhere provided for in this chapter;

(25) "Comparable level position," a member's position of employment that is generally equivalent to the member's prior position of employment in terms of required education, required experience, required training, required work history, geographic location, and compensation and benefits;

(26) "Conservation officers," employees of the Department of Game, Fish and Parks and the Division of Wildlife or Division of Custer State Park who are employed pursuant to § 41-2-11 and whose positions are subject to the requirements as to education and training provided in chapter 23-3;

(27) "Consumer price index," the consumer price index for urban wage earners and clerical workers calculated by the United States Bureau of Labor Statistics;

(28) "Contributory service," service to a participating unit during which contributions were made to a South Dakota retirement system, which may not include years of credited service as granted in § 3-12C-509 or 3-12C-511;

(29) "Correctional security staff," the warden, deputy warden, and any other correctional staff holding a security position as verified by the Department of Corrections and approved by the Bureau of Human Resources and the Bureau of Finance and Management, and determined by the board as Class B members;

(30) "Court services officers," persons appointed pursuant to § 26-7A-8;

(31) "Covered employment," a member's employment as a full-time employee of a participating unit;

(32) "Deputy county sheriff," an employee of a county that is a participating unit, appointed by the board of county commissioners pursuant to §§ 7-12-9 and 7-12-10, whose position is subject to the minimum educational and training standards established by the law enforcement standards commission pursuant to chapter 23-3. The term does not include jailers or clerks appointed pursuant to §§ 7-12-9 and 7-12-10 unless the participating unit has requested that the jailer be considered as a deputy county sheriff and the board has approved the request;

(33) "Effective date of retirement," the first day of the month in which retirement benefits are payable;

(34) "Eligible retirement plan," the term eligible retirement plan includes those plans described in section 402(c)(8)(B) of the Internal Revenue Code;

(35) "Eligible rollover distribution," any distribution to a member of accumulated contributions pursuant to § 3-12C-602. The term does not include any portion of a distribution that represents contributions made to the system on an after tax basis nor distributions paid as a result of the member reaching the required beginning date;

(36) "Emergency medical services personnel," a person licensed by the Board of Medical and Osteopathic Examiners in accordance with chapter 36-4B or licensed or certified by the Department of Health in accordance with chapter 34-11 who actively practices emergency medical services;

~~(36)~~(37) "Employer," the State of South Dakota and any department, bureau, board, or commission of the State of South Dakota, or any of its governmental or political subdivisions or any public corporation of the State of South Dakota that elects to become a participating unit;

~~(37)~~(38) "Employer contributions," amounts contributed by the employer of a contributing member, excluding member contributions made by an employer after June 30, 1984, pursuant to § 3-12C-401;

~~(38)~~(39) "Equivalent public service," any public service other than as a justice, a judge, or a magistrate judge and comparable to Class B service as defined by this section, if the service is in the employ of a public entity that is not a participating unit;

~~(39)~~(40) "Fair value of assets," the total assets of the system at fair market value for securities traded on exchanges; for securities not traded on exchanges, a value based on similar securities; and for alternative investments, reported net asset value;

~~(40)~~(41) "Fair value funded ratio," the fair value of assets divided by the actuarial accrued liability;

~~(41)~~(42) "Fiduciary," any person who exercises any discretionary authority or control over the management of the system or the management or disposition of its assets, renders investment advice for a fee or other compensation, direct or indirect, or has any authority or responsibility to do so, or has any discretionary authority or responsibility in the administration of the system;

~~(42)~~(43) "Foundation member," any member of the system whose contributory service began before July 1, 2017;

~~(43)~~(44) "Foundation retiree," any foundation member who has retired with a benefit payable from the system;

~~(44)~~(45) "Firefighter," any full-time firefighter who works at least twenty hours a week and at least six months a year. The term does not include any volunteer firefighter;

~~(45)~~(46) "Full-time employee," any employee who is considered full-time by the participating unit and is customarily employed by the participating unit for twenty hours or more a week and at least six months a year, regardless of classification of employment as seasonal, temporary, leased, contract, or any other designation;

~~(46)~~(47) "Fund," public employees' retirement fund or funds established for the purposes of administration of this chapter;

~~(47)~~(48) "Gaming enforcement agent," any employee of the South Dakota Commission on Gaming who is appointed pursuant to § 42-7B-56 and who must, as a condition of employment, be law enforcement certified;

~~(48)~~(49) "General employee," any full-time municipal employee who is not a firefighter or a police officer;

~~(49)~~(50) "Generational member," any member of the system whose contributory service began after June 30, 2017;

~~(50)~~(51) "Generational retiree," any generational member who has retired with a benefit payable from the system;

~~(51)~~(52) "Health care provider," a physician or other health care practitioner licensed, registered, certified, or otherwise authorized by law to provide specified health services;

~~(52)~~(53) "Internal Revenue Code," or "code," the Internal Revenue Code as in effect as of January 1, 2022;

~~(53)~~(54) "Juvenile corrections agent," a designee of the secretary of corrections charged with the care, custody, and control of juveniles committed to the Department of Corrections until the age of twenty-one or a person who is charged with the care, custody, and control of juveniles at a juvenile corrections facility under the control of a participating unit;

~~(54)~~(55) "Law enforcement officer," any agent of the state division of criminal investigation, officer of the South Dakota Highway Patrol, police officer, county sheriff, deputy county sheriff, or firefighter;

~~(55)~~(56) "Member," any person who is contributing or has made contributions to the system and is either a foundation member or generational member. A person's membership ceases when the person withdraws his or her accumulated contributions after termination of employment;

~~(56)~~(57) "Member contributions," amounts contributed by members, including member contributions made by an employer after June 30, 1984, pursuant to § 3-12C-401;

~~(57)~~(58) "Military service," a period of active duty with the United States Army, the United States Navy, the United States Air Force, the United States Marine Corps, or the United States Coast Guard, from which duty the member received an honorable discharge or an honorable release;

~~(58)~~(59) "Municipality," any incorporated municipal government under chapter 9-3 or any chartered governmental unit under the provisions of Article IX of the Constitution of the State of South Dakota;

~~(59)~~(60) "Noncontributory service," for foundation members, service delineated in subdivisions 3-12C-502(2), (5), (7), and (8), and for generational members, service pursuant to § 3-12C-514;

~~(60)~~(61) "Normal cost," the expected long-term cost of the system benefits and expenses expressed as a percentage of payroll;

~~(61)~~(62) "Normal retirement," the termination of employment and application for benefits by a member with three or more years of contributory service or noncontributory service on or after the member's normal retirement age;

~~(62)~~(63) "Other public benefits," eighty percent of the primary insurance

amount or primary social security benefits that would be provided under federal social security;

~~(63)~~(64) "Other public service," service for the government of the United States, including military service; service for the government of any state or political subdivision thereof; service for any agency or instrumentality of any of the foregoing; or service as an employee of an association of government entities described in this subdivision;

~~(64)~~(65) "Park rangers," employees of the Department of Game, Fish and Parks within the Division of Parks and Recreation and whose positions are subject to the requirements as to education and training provided in chapter 23-3 and whose primary duty is law enforcement in the state park system;

~~(65)~~(66) "Parole agent," an employee of the Department of Corrections employed pursuant to § 24-15-14 who is actually involved in direct supervision of parolees on a daily basis;

~~(66)~~(67) "Participating unit," the State of South Dakota and any department, bureau, board, or commission of the State of South Dakota, and any of its political subdivisions or any public corporation of the State of South Dakota that has employees who are members of the retirement system created in this chapter;

~~(67)~~(68) "Plan year," a period extending from July first of one calendar year through June thirtieth of the following calendar year;

~~(68)~~(69) "Police officer," any employee in the police department of any participating municipality holding the rank of patrol officer, including probationary patrol officer, or higher rank and whose position is subject to the minimum educational and training standards established by the law enforcement officers standards commission pursuant to chapter 23-3. The term does not include civilian employees of a police department nor any person employed by a municipality whose services as a police officer require less than twenty hours a week and six months a year. If a municipality which is a participating unit operates a city jail, the participating unit may request that any jailer appointed pursuant to § 9-29-25 be considered a police officer, subject to the approval of the board;

~~(69)~~(70) "Political subdivision" includes any municipality, school district, county, chartered governmental unit, public corporation or entity, and special district created for any governmental function;

~~(70)~~(71) "Present value of all benefits," the present value of all benefits expected to be paid to all retired, terminated, and active members and beneficiaries, based on past and future credited service and future compensation increases;

~~(71)~~(72) "Present value of benefits earned to date," the present value of the benefits currently being paid to retired members and their beneficiaries and the present value of benefits payable at retirement to active members, based on their earnings and credited service to date of the actuarial valuation;

~~(72)~~(73) "Projected compensation," a deceased or disabled member's final average compensation multiplied by the COLA commencing each July first for each complete twelve-month period elapsed between the date of the member's death or disability, whichever occurred earlier, and the date the member would attain normal retirement age or the benefit commences, whichever occurred earlier;

~~(73)~~(74) "Projected service," the credited service plus the service that the member would have been credited with at normal retirement age had the member continued in the system and received credit at the same rate the member was credited during the year covered by the compensation that was used in the calculation of the disability or family benefit;

~~(74)~~(75) "Qualified military service," service in the uniformed services as defined in § 414(u)(5) of the Internal Revenue Code;

~~(75)~~(76) "Required beginning date," the later of April first of the calendar year following the calendar year in which the member attains age seventy and one-half or April first of the calendar year following the calendar year in which the member retires;

~~(76)~~(77) "Retiree," any foundation or generational member who retires with a lifetime benefit payable from the system;

~~(77)~~(78) "Retirement," the severance of a member from the employ of a participating unit with a retirement benefit payable from the system;

~~(78)~~(79) "Retirement benefit," the monthly amount payable upon the retirement of a member;

~~(79)~~(80) "Single premium," the lump-sum amount paid by a supplemental pension participant pursuant to a supplemental pension contract in consideration for a supplemental pension benefit;

~~(80)~~(81) "Social investment," investment, divestment, or prohibition of investment of the assets of the system for purposes other than maximum risk-adjusted investment return, which other purposes include ideological purposes, environmental purposes, political purposes, religious purposes, or purposes of local or regional economic development;

~~(81)~~(82) "State employees," employees of the departments, bureaus, commissions, and boards of the State of South Dakota;

~~(82)~~(83) "Supplemental pension benefit," any single-premium immediate pension benefit payable pursuant to §§ 3-12C-1504 and 3-12C-1505;

~~(83)~~(84) "Supplemental pension contract," any agreement between a participant and the system upon which a supplemental pension is based, including the amount of the single premium, the type of pension benefit, and the monthly supplemental pension payment amount;

~~(84)~~(85) "Supplemental pension contract record," the record for each supplemental pension participant reflecting relevant participant data; a designation of any beneficiary, if any; the amount of the participant's funds rolled into the fund; the provisions of the participant's supplemental pension contract; and supplemental pension payments made pursuant to the contract;

~~(85)~~(86) "Supplemental pension participant," any member who is a retiree receiving a benefit from the system, or, if the member is deceased, the member's surviving spouse who is receiving a benefit from the system, and who chooses to purchase a supplemental pension benefit pursuant to the provisions of this chapter;

~~(86)~~(87) "Supplemental pension spouse," any person who was married to a supplemental pension participant at the time the participant entered into the supplemental pension contract;

~~(87)~~(88) "System," the South Dakota Retirement System created in this chapter;

~~(88)~~(89) "Trustee," a member of the board of trustees;

~~(89)~~(90) "Unfunded actuarial accrued liability," the actuarial accrued liability less the actuarial value of assets.

Signed March 8, 2023

Chapter 16

(House Bill 1008)

An Act to revise provisions relating to actuarial terminology used by the South Dakota Retirement System.

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

Section 1. That § 3-12C-101 be AMENDED:

3-12C-101. Terms as used in this chapter mean:

(1) "Actuarial accrued liability," the present value of all benefits less the present value of future normal cost contributions;

(2) "Actuarial experience analysis," a periodic report that reviews basic experience data and furnishes actuarial analysis that substantiates the assumptions adopted for the purpose of making an actuarial valuation of the system;

(3) "Actuarial valuation," a projection of the present value of all benefits and the current funded status of the system, based upon stated assumptions as to rates of interest, mortality, disability, salary progressions, withdrawal, and retirement as established by a periodic actuarial experience analysis that takes into account census data of all active members, vested terminated members, and retired members and their beneficiaries under the system;

(4) "Actuarial value funded ratio," the actuarial value of assets divided by the actuarial accrued liability;

(5) "Actuarial value of assets," equal to the fair value of assets;

(6) "Actuarially determined contribution rate," the fixed, statutory contribution rate, no less than the normal cost rate with expenses assuming the minimum COLA, and no greater than the normal cost rate with expenses assuming the maximum COLA;

(7) "Air rescue firefighters," employees of the Department of the Military who are stationed at Joe Foss Field, Sioux Falls, and who are directly involved in firefighting activities on a daily basis;

(8) "Approved actuary," any actuary who is a member of the American Academy of Actuaries or an Associate or a Fellow of the Society of Actuaries who meets the qualification standards of the American Academy of Actuaries to issue actuarial opinions regarding the system or any firm retaining such an actuary on its staff and who is appointed by the board to perform actuarial services;

(9) "Assumed rate of return," the actuarial assumption adopted by the board pursuant to § 3-12C-227 as the annual assumed percentage return on trust fund assets, compounded;

(10) "Beneficiary," the person designated by a member of the system to receive any payments after the death of such member;

(11) "Benefits," the amounts paid to a member, spouse, child, or beneficiary as a result of the provisions of this chapter;

(12) "Board," the Board of Trustees of the South Dakota Retirement System;

(13) "Calendar quarter," a period of three calendar months ending March thirty-first, June thirtieth, September thirtieth, or December thirty-first of any year;

(14) "Campus security officers," employees of the Board of Regents whose positions are subject to the minimal educational training standards established by the law enforcement standards commission pursuant to chapter 23-3, who satisfactorily complete the training required by chapter 23-3 within one year of employment, and whose primary duty as sworn law enforcement officers is to preserve the safety of the students, faculty, staff, visitors, and the property of the university. The employer shall file with the system evidence of the appointment as a sworn law enforcement officer at the time of employment and shall file evidence of satisfactory completion of the training program pursuant to chapter 23-3 within one year of employment;

(15) "Certified school employee," any employee of a participating unit who is required to have a certificate as defined in subdivision 13-42-1(3);

(16) "Class A credited service," service credited as a Class A member of the system;

(17) "Class A member," any member other than a Class B member or a Class C member and is either a foundation member or a generational member;

(18) "Class B credited service," service credited as a Class B member of the system;

(19) "Class B member," a member who is a justice, judge, state law enforcement officer, magistrate judge, police officer, firefighter, county sheriff, deputy county sheriff, correctional security staff, parole agent, air rescue firefighter, campus security officer, court services officer, juvenile corrections agent, gaming enforcement agent, conservation officer, or park ranger and is either a foundation member or a generational member;

(20) "Class C credited service," service credited as a Class C member of the system;

(21) "Class C member," any member of the cement plant retirement plan including any retiree or any vested member;

(22) "Class D credited service," service credited as a Class D member of the system;

(23) "Class D member," any member that was a member of the Department of Labor and Regulation employees' retirement plan as of June 30, 2020;

(24) "Classified employee," an employee of a public school district who is not required by law to be a certified school employee, an employee of any college or university under the control of the Board of Regents who is not a faculty member or an administrator and comes within the provisions of

chapter 3-6D, an employee of a public corporation, an employee of a chartered governmental unit, and any other participating employee not elsewhere provided for in this chapter;

(25) "Comparable level position," a member's position of employment that is generally equivalent to the member's prior position of employment in terms of required education, required experience, required training, required work history, geographic location, and compensation and benefits;

(26) "Conservation officers," employees of the Department of Game, Fish and Parks and the Division of Wildlife or Division of Custer State Park who are employed pursuant to § 41-2-11 and whose positions are subject to the requirements as to education and training provided in chapter 23-3;

(27) "Consumer price index," the consumer price index for urban wage earners and clerical workers calculated by the United States Bureau of Labor Statistics;

(28) "Contributory service," service to a participating unit during which contributions were made to a South Dakota retirement system, which may not include years of credited service as granted in § 3-12C-509 or 3-12C-511;

(29) "Correctional security staff," the warden, deputy warden, and any other correctional staff holding a security position as verified by the Department of Corrections and approved by the Bureau of Human Resources and the Bureau of Finance and Management, and determined by the board as Class B members;

(30) "Court services officers," persons appointed pursuant to § 26-7A-8;

(31) "Covered employment," a member's employment as a full-time employee of a participating unit;

(32) "Deputy county sheriff," an employee of a county that is a participating unit, appointed by the board of county commissioners pursuant to §§ 7-12-9 and 7-12-10, whose position is subject to the minimum educational and training standards established by the law enforcement standards commission pursuant to chapter 23-3. The term does not include jailers or clerks appointed pursuant to §§ 7-12-9 and 7-12-10 unless the participating unit has requested that the jailer be considered as a deputy county sheriff and the board has approved the request;

(33) "Effective date of retirement," the first day of the month in which retirement benefits are payable;

(34) "Eligible retirement plan," the term eligible retirement plan includes those plans described in section 402(c)(8)(B) of the Internal Revenue Code;

(35) "Eligible rollover distribution," any distribution to a member of accumulated contributions pursuant to § 3-12C-602. The term does not include any portion of a distribution that represents contributions made to the system on an after tax basis nor distributions paid as a result of the member reaching the required beginning date;

(36) "Employer," the State of South Dakota and any department, bureau, board, or commission of the State of South Dakota, or any of its governmental or political subdivisions or any public corporation of the State of South Dakota that elects to become a participating unit;

(37) "Employer contributions," amounts contributed by the employer of a contributing member, excluding member contributions made by an employer after June 30, 1984, pursuant to § 3-12C-401;

(38) "Equivalent public service," any public service other than as a justice, a judge, or a magistrate judge and comparable to Class B service as defined by this section, if the service is in the employ of a public entity that is not a participating unit;

(39) "Fair value of assets," the total assets of the system at fair market value for securities traded on exchanges; for securities not traded on exchanges, a value based on similar securities; and for alternative investments, reported net asset value;

(40) "Fair value funded ratio," the fair value of assets divided by the actuarial accrued liability;

(41) "Fiduciary," any person who exercises any discretionary authority or control over the management of the system or the management or disposition of its assets, renders investment advice for a fee or other compensation, direct or indirect, or has any authority or responsibility to do so, or has any discretionary authority or responsibility in the administration of the system;

(42) "Foundation member," any member of the system whose contributory service began before July 1, 2017;

(43) "Foundation retiree," any foundation member who has retired with a benefit payable from the system;

(44) "Firefighter," any full-time firefighter who works at least twenty hours a week and at least six months a year. The term does not include any volunteer firefighter;

(45) "Full-time employee," any employee who is considered full-time by the participating unit and is customarily employed by the participating unit for twenty hours or more a week and at least six months a year, regardless of classification of employment as seasonal, temporary, leased, contract, or any other designation;

(46) "Fund," public employees' retirement fund or funds established for the purposes of administration of this chapter;

(47) "Gaming enforcement agent," any employee of the South Dakota Commission on Gaming who is appointed pursuant to § 42-7B-56 and who must, as a condition of employment, be law enforcement certified;

(48) "General employee," any full-time municipal employee who is not a firefighter or a police officer;

(49) "Generational member," any member of the system whose contributory service began after June 30, 2017;

(50) "Generational retiree," any generational member who has retired with a benefit payable from the system;

(51) "Health care provider," a physician or other health care practitioner licensed, registered, certified, or otherwise authorized by law to provide specified health services;

(52) "Internal Revenue Code," or "code," the Internal Revenue Code as in effect as of January 1, 2022;

(53) "Juvenile corrections agent," a designee of the secretary of corrections charged with the care, custody, and control of juveniles committed to the Department of Corrections until the age of twenty-one or a person who is charged with the care, custody, and control of juveniles at a juvenile corrections facility under the control of a participating unit;

(54) "Law enforcement officer," any agent of the state division of criminal investigation, officer of the South Dakota Highway Patrol, police officer, county sheriff, deputy county sheriff, or firefighter;

(55) "Member," any person who is contributing or has made contributions to the system and is either a foundation member or generational member. A person's membership ceases when the person withdraws his or her accumulated contributions after termination of employment;

(56) "Member contributions," amounts contributed by members, including member contributions made by an employer after June 30, 1984, pursuant to § 3-12C-401;

(57) "Military service," a period of active duty with the United States Army, the United States Navy, the United States Air Force, the United States Marine Corps, or the United States Coast Guard, from which duty the member received an honorable discharge or an honorable release;

(58) "Municipality," any incorporated municipal government under chapter 9-3 or any chartered governmental unit under the provisions of Article IX of the Constitution of the State of South Dakota;

(59) "Noncontributory service," for foundation members, service delineated in subdivisions 3-12C-502(2), (5), (7), and (8), and for generational members, service pursuant to § 3-12C-514;

(60) "Normal cost," the expected long-term cost of the system benefits and expenses expressed as a percentage of payroll;

(61) "Normal retirement," the termination of employment and application for benefits by a member with three or more years of contributory service or noncontributory service on or after the member's normal retirement age;

(62) "Other public benefits," eighty percent of the primary insurance amount or primary social security benefits that would be provided under federal social security;

(63) "Other public service," service for the government of the United States, including military service; service for the government of any state or political subdivision thereof; service for any agency or instrumentality of any of the foregoing; or service as an employee of an association of government entities described in this subdivision;

(64) "Park rangers," employees of the Department of Game, Fish and Parks within the Division of Parks and Recreation and whose positions are subject to the requirements as to education and training provided in chapter 23-3 and whose primary duty is law enforcement in the state park system;

(65) "Parole agent," an employee of the Department of Corrections employed pursuant to § 24-15-14 who is actually involved in direct supervision of parolees on a daily basis;

(66) "Participating unit," the State of South Dakota and any department, bureau, board, or commission of the State of South Dakota, and any of its political subdivisions or any public corporation of the State of South

Dakota that has employees who are members of the retirement system created in this chapter;

(67) "Plan year," a period extending from July first of one calendar year through June thirtieth of the following calendar year;

(68) "Police officer," any employee in the police department of any participating municipality holding the rank of patrol officer, including probationary patrol officer, or higher rank and whose position is subject to the minimum educational and training standards established by the law enforcement officers standards commission pursuant to chapter 23-3. The term does not include civilian employees of a police department nor any person employed by a municipality whose services as a police officer require less than twenty hours a week and six months a year. If a municipality which is a participating unit operates a city jail, the participating unit may request that any jailer appointed pursuant to § 9-29-25 be considered a police officer, subject to the approval of the board;

(69) "Political subdivision" includes any municipality, school district, county, chartered governmental unit, public corporation or entity, and special district created for any governmental function;

(70) "Present value of all benefits," the present value of all benefits expected to be paid to all retired, terminated, and active members and beneficiaries, based on past and future credited service and future compensation increases;

(71) "Present value of benefits earned to date," the present value of the benefits currently being paid to retired members and their beneficiaries ~~and ~~, the present value of the benefits payable ~~at retirement~~ to terminated members, and the actuarial accrued liability of active members, based on ~~their earnings and credited service to date of~~ the actuarial assumptions and methods used in the actuarial valuation;

(72) "Projected compensation," a deceased or disabled member's final average compensation multiplied by the COLA commencing each July first for each complete twelve-month period elapsed between the date of the member's death or disability, whichever occurred earlier, and the date the member would attain normal retirement age or the benefit commences, whichever occurred earlier;

(73) "Projected service," the credited service plus the service that the member would have been credited with at normal retirement age had the member continued in the system and received credit at the same rate the member was credited during the year covered by the compensation that was used in the calculation of the disability or family benefit;

(74) "Qualified military service," service in the uniformed services as defined in § 414(u)(5) of the Internal Revenue Code;

(75) "Required beginning date," the later of April first of the calendar year following the calendar year in which the member attains age seventy and one-half or April first of the calendar year following the calendar year in which the member retires;

(76) "Retiree," any foundation or generational member who retires with a lifetime benefit payable from the system;

(77) "Retirement," the severance of a member from the employ of a participating unit with a retirement benefit payable from the system;

(78) "Retirement benefit," the monthly amount payable upon the retirement of a member;

(79) "Single premium," the lump-sum amount paid by a supplemental pension participant pursuant to a supplemental pension contract in consideration for a supplemental pension benefit;

(80) "Social investment," investment, divestment, or prohibition of investment of the assets of the system for purposes other than maximum risk-adjusted investment return, which other purposes include ideological purposes, environmental purposes, political purposes, religious purposes, or purposes of local or regional economic development;

(81) "State employees," employees of the departments, bureaus, commissions, and boards of the State of South Dakota;

(82) "Supplemental pension benefit," any single-premium immediate pension benefit payable pursuant to §§ 3-12C-1504 and 3-12C-1505;

(83) "Supplemental pension contract," any agreement between a participant and the system upon which a supplemental pension is based, including the amount of the single premium, the type of pension benefit, and the monthly supplemental pension payment amount;

(84) "Supplemental pension contract record," the record for each supplemental pension participant reflecting relevant participant data; a designation of any beneficiary, if any; the amount of the participant's funds rolled into the fund; the provisions of the participant's supplemental pension contract; and supplemental pension payments made pursuant to the contract;

(85) "Supplemental pension participant," any member who is a retiree receiving a benefit from the system, or, if the member is deceased, the member's surviving spouse who is receiving a benefit from the system, and who chooses to purchase a supplemental pension benefit pursuant to the provisions of this chapter;

(86) "Supplemental pension spouse," any person who was married to a supplemental pension participant at the time the participant entered into the supplemental pension contract;

(87) "System," the South Dakota Retirement System created in this chapter;

(88) "Trustee," a member of the board of trustees;

(89) "Unfunded actuarial accrued liability," the actuarial accrued liability less the actuarial value of assets.

Section 2. That § 3-12C-102 be AMENDED:

3-12C-102. For the purposes of this chapter, the term, actuarial equivalent, is a benefit of equal value, computed on the basis of the interest rate, mortality, and baseline COLA assumptions adopted by the board for purposes of the actuarial valuation. If the board adopts a select and ultimate rate of interest, the interest rate is the ultimate rate. Mortality is based on a unisex rate that is fifty percent male and fifty percent female for employees and beneficiaries, based on the mortality rates for retired employees and beneficiaries, including, if the board adopts a generational mortality table, a generational projection of mortality improvement ~~to the year specified by the board based on~~ with the member's and beneficiary's ages as of the date of the calculation ~~and projected generationally after that year~~ assumed to be in the calendar year in which the plan year containing the date of the calculation begins. If the board adopts distinct mortality tables for

the different categories of retired members or beneficiaries, the mortality rates must be based on a weighted blend of the tables with the weighting based on the percentage of accrued benefits for each category of members as the actuarial valuation immediately preceding the date of adoption of the mortality tables. The system shall make the interest rate, mortality, and baseline COLA assumptions public.

Section 3. That § 3-12C-109 be AMENDED:

3-12C-109. For the purposes of this chapter, the phrase, minimum actuarial requirement to support benefits, means the normal cost and the interest on and amortization of the unfunded actuarial accrued liability over a period not to exceed twenty years, all expressed in terms of a percentage of covered payroll and based on the baseline COLA or the restricted COLA, as applicable. If the actuarial value of assets exceeds the actuarial accrued liability, the minimum actuarial requirement to support benefits includes ~~a thirty year amortization~~ recognition of the amount by which the actuarial value of assets exceeds the actuarial accrued liability. However, in no event may the recognition reduce the minimum actuarial requirement to support benefits to a percentage less than the contribution rate.

Section 4. That § 3-12C-704 be AMENDED:

3-12C-704. The COLA payable is the baseline COLA or the restricted COLA, as applicable. The baseline COLA is equal to the increase in the consumer price index, but no less than zero percent and no greater than three and one-half percent. The restricted COLA is equal to the increase in the consumer price index, but no less than zero percent and no greater than the restricted COLA maximum as determined in subdivision (2) of this section. The board shall establish the COLA payable for each fiscal year, based on the fair value funded ratio and ~~actuarially determined contribution rate of the~~ system the minimum actuarial requirement to support benefits as of the prior July first and the increase in the consumer price index for the preceding third calendar quarter compared to the consumer price index for the third calendar quarter for the base year (the previous year in which the consumer price index was the highest), by utilizing one of the following subdivisions, as applicable:

(1) If the system meets the criteria in subdivisions 3-12C-228(1) and (2) based on the baseline COLA assumption adopted by the board, the COLA payable is the baseline COLA; or

(2) If the system does not meet the criteria in subdivisions 3-12C-228(1) and (2) based on the baseline COLA assumption adopted by the board, the system shall calculate a restricted COLA maximum in accordance with the board's funding policy that is equal to the actuarially determined annual COLA rate that results in the criteria in subdivisions 3-12C-228(1) and (2) being satisfied, if achievable. The COLA payable is the restricted COLA. If the criteria in subdivisions 3-12C-228(1) and (2) cannot be satisfied, the COLA payable is zero percent.

Signed March 14, 2023

PUBLIC PROPERTY, PURCHASES AND CONTRACTS

Chapter 17
(House Bill 1060)

An Act to modify provisions related to procurement for the state and other purchasing agencies.

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

Section 1. That § 5-18A-1 be AMENDED:

5-18A-1. Terms used in this chapter and chapters 5-18B, 5-18C, and 5-18D mean:

(1) "Acceptance," the formal resolution of a purchasing agency authorizing the execution of a design-build contract;

(2) "Biobased," any materials composed wholly or in a significant part of biological products including renewable agricultural materials or forestry materials;

(3) "Contract," any type of agreement, regardless of what the agreement may be called, for the procurement of supplies, services, or construction;

(4) "Construction," and "constructed," in addition to their ordinary meaning, repair, demolition, and alteration;

(5) "Construction management," any project delivery system based on an agreement whereby a construction manager provides leadership to the construction process through a series of services to the purchasing agency;

(6) "Construction manager," any person or entity that provides construction management services for a purchasing agency, and is either a construction manager-agent or construction manager-at-risk;

(7) "Construction manager-agent," any construction manager that provides construction management services to a purchasing agency in a fiduciary capacity;

(8) "Construction manager-at-risk," any construction manager that assumes the risk for construction, rehabilitation, alteration, or repair of a public improvement and that provides construction management services to the purchasing agency;

(9) "Design-build contract," any contract between a purchasing agency and a design-builder to furnish the architecture, engineering, and related services as required, and the labor, materials, and other construction services for a public improvement. A design-build contract may be conditioned upon future refinements in scope and price, and may permit the purchasing agency to make changes in the scope of the project without invalidating the design-build contract;

(10) "Design-build proposal," an offer to enter into a design-build contract;

(11) "Design-build request for proposals," any document or publication whereby a purchasing agency solicits proposals for a design-build contract;

(12) "Design-builder," any person that proposes to design and construct a public improvement covered by the procedures of this chapter and chapters 5-18B, 5-18C, and 5-18D;

(13) "Environmentally preferable product," any cleaning or maintenance product having properties that minimize potential impacts to human health and the environment, any product designed to conserve energy and water, any biobased product, and any product containing recycled materials or recovered materials;

(14) "Internet," the international computer network of both federal and nonfederal interoperable packet switched data networks, including the graphical subnetwork called the world wide web;

(15) "Invitation for bids," any document, whether attached or incorporated by reference, used for soliciting bids;

(16) "Officer," any elected official or administrative officer appointed to that position by the governing body;

(17) "Performance criteria," requirements for the public improvement, including as appropriate, capacity, durability, production standards, ingress and egress requirements, building code requirements, or other criteria for the intended use of the public improvement, expressed in performance-oriented specifications or drawings suitable to allow the design-builder to make a proposal;

(18) "Performance criteria developer," any person and the person's subcontractors retained by the purchasing agency to develop performance criteria;

(19) "Professional services," services arising out of a vocation, calling, occupation, or employment involving specialized knowledge, labor, or skill, and the labor or skill involved is predominantly mental or intellectual, rather than physical or manual;

(20) "Proposal," any offer to enter into contract in response to a request for proposals;

(21) "Purchasing agency," any governmental body or officer authorized by law, administrative rule, or delegated authority, to enter into contracts;

(22) "Public improvement," the process of building, altering, repairing, improving, or demolishing any public infrastructure facility, including any utility infrastructure, structure, building, or other improvements of any kind to real property, the cost of which is payable from taxes or other funds under the control of the purchasing agency, and includes any local improvement for which a special assessment is to be levied;

(23) "Qualified agency," any public or private nonprofit corporation geographically located in the State of South Dakota that provides services for persons with disabilities and is certified by the Department of Human Services;

(24) "Request for proposals," any document, whether attached or incorporated by reference, utilized by a purchasing agency when soliciting proposals for contracts for the procurement of supplies, services, or construction;

(25) "Request for qualifications," the document or publication whereby a

purchasing agency solicits interested design-builders to pre-qualify for a design-build contract;

(26) "Resident," any person, partnership, association, limited liability company, foreign limited liability company, corporation, or foreign corporation licensed to do business within this state that has maintained a substantial and bona fide place of business and has conducted business from within this state for at least one year prior to the date on which a contract was awarded. The members of the partnership or association shall have been bona fide residents of the state for one year or more immediately prior to bidding upon the contract. A foreign corporation licensed pursuant to §§ 47-1A-1501 to 47-1A-1532, inclusive, is not a resident as defined by this section if the state or country in which it is organized enforces or has a preference for resident bidders;

(26A) "Reverse auction," a purchasing process in which bidders submit bids in competing to sell supplies or nonprofessional services in an open environment via the internet;

(27) "Sealed bid or proposal," a response to an invitation for bids or request for proposals submitted in a manner where the contents of the bid or proposal cannot be opened or viewed before the date and time of the formal opening without leaving evidence that the bid or proposal has been opened or viewed;

(28) "Services," furnishing of labor, time, or effort by a contractor not involving the delivery of a specific end product other than reports which are merely incidental to the required performance;

(29) "Supplies," any property, including equipment, materials, and printing;

(30) "Surety," a bond or undertaking executed by a surety company authorized to do business in the State of South Dakota and countersigned by an agent of the company resident in the State of South Dakota. However, nothing in this subdivision requires countersignature of a bid bond.

Section 2. That § 5-18A-11 be AMENDED:

5-18A-11. Unless otherwise specified by statute, purchases of supplies and services under ~~twenty five~~ fifty thousand dollars ~~shall~~ must be made as follows:

(1) Notwithstanding other provisions of chapter 5-18A or 5-18D, the Bureau of Administration may authorize state agencies and institutions to make purchases of supplies over four thousand dollars and under ~~twenty five~~ fifty thousand dollars by obtaining three quotes from different vendors. If three quotes cannot be obtained, the Bureau of Administration may approve the purchase if in the best interest of the state, require additional quotes to be obtained, or require the purchase be advertised for bids;

(2) State purchases of supplies under four thousand dollars may be made in accordance with procedures established by the purchasing agency in the best interests of the state;

(3) State purchases of services under ~~twenty five~~ fifty thousand dollars may be made in accordance with procedures established by the purchasing agency in the best interests of the state; and

(4) For all other purchasing agencies, purchases under ~~twenty five~~ fifty thousand dollars may be made in accordance with procedures established by the purchasing agency.

No purchases may be artificially divided to constitute a small purchase under this section.

Section 3. That § 5-18A-14 be AMENDED:

5-18A-14. If the purchasing agency intends to enter into a contract for any public improvement that involves the expenditure of one hundred thousand dollars or more, or a contract for the purchase of supplies or services, other than professional services, that involves the expenditure of ~~twenty-five~~ fifty thousand dollars or more, the purchasing agency shall advertise for bids or proposals. The advertisement shall appear as a legal notice in the appointed legal newspaper. The advertisement shall be printed at least twice, with the first publication at least ten days before opening of bids or the deadline for the submission of proposals. The first publication shall be in each official newspaper of the purchasing agency, and the second publication may be in any legal newspaper of the state chosen by the purchasing agency. If the purchasing agency has no official newspaper, the first publication shall be made in a legal newspaper with general circulation in the jurisdiction of the purchasing agency to be selected by the purchasing agency. The advertisement shall state the time and place where the bids will be opened or the deadline for the submission of proposals. In each notice, the purchasing agency shall reserve the right to reject any or all bids or proposals.

Section 4. That § 5-18A-22 be AMENDED:

5-18A-22. The provisions of this chapter and chapters 5-18B, 5-18C, and 5-18D do not apply to:

(1) Any highway construction contract entered into by the Department of Transportation;

(2) Any contract for the purchase of supplies from the United States or its agencies or any contract issued by the General Services Administration;

(3) Any purchase of supplies or services, other than professional services, by purchasing agencies from any active contract that has been awarded by any government entity by competitive sealed bids or competitive sealed proposals or from any contract that was competitively solicited and awarded within the previous twelve months;

(4) Any equipment repair contract;

(5) Any procurement of electric power, water, or natural gas; chemical and biological products; laboratory apparatus and appliances; published books, maps, periodicals and technical pamphlets; works of art for museum and public display; medical supplies; communications technologies, computer hardware and software, peripheral equipment, and related connectivity; tableware or perishable foods;

(6) Any supplies, services, and professional services required for externally funded research projects at institutions under the control of the Board of Regents;

(7) Any property or liability insurance or performance bonds, except that the actual procurement of any insurance or performance bonds by any department of the state government, state institution, and state agency shall be made under the supervision of the Bureau of Administration;

(8) Any supplies needed by the Department of Human Services or the Department of Social Services or prison industries for the manufacturing of products;

(9) Any printing involving student activities, conducted by student organizations and paid for out of student fees, at institutions under the control of the Board of Regents. However, nothing in this subdivision exempts, from the requirements of this chapter and chapters 5-18B, 5-18C, and 5-18D, purchases that involve printing for other activities at institutions under the control of the Board of Regents;

(10) Any purchase of surplus property from another purchasing agency;

(11) Any animals purchased;

(12) Any purchase by a school district of perishable food, raw materials used in construction or manufacture of products for resale, or for transportation of students;

(13) Any authority authorized by chapters 1-16A, 1-16B, 1-16G, 1-16H, 1-16J, 5-12, or 11-11;

(14) Any seeds, fertilizers, herbicides, pesticides, feeds, and supplies used in the operation of farms by institutions under the control of the Board of Regents;

(15) Any purchase of supplies for any utility owned or operated by a municipality if the purchase does not exceed the limits established in § 5-18A-14;

(16) For political subdivisions, any contract for asbestos removal in emergency response actions and any contract for services provided by individuals or firms for consultants, audits, legal services, ambulance services, architectural services and engineering, insurance, real estate services, or auction services;

(17) Any purchase of supplies or services from a contract established through a Midwestern Higher Education Compact group purchasing program by a competitive sealed bid or a competitive sealed proposal; or

(18) Any contract concerning the custody, management, purchase, sale, and exchange of fund investments and research by the State Investment Council or Division of Investment~~; or~~

~~(19) For political subdivisions, any purchase of equipment involving the expenditure of less than fifty thousand dollars~~.

Signed February 22, 2023

Chapter 18

(Senate Bill 189)

An Act to prohibit purchasing agencies from contracting with companies owned or controlled by certain foreign entities or governments.

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

Section 1. That § 5-18A-1 be AMENDED:

5-18A-1. Terms used in this chapter and chapters 5-18B, 5-18C, and 5-18D mean:

(1) "Acceptance," the formal resolution of a purchasing agency authorizing the execution of a design-build contract;

(2) "Biobased," any materials composed wholly or in a significant part of biological products including renewable agricultural materials or forestry materials;

(3) "Contract," any type of agreement, regardless of what the agreement may be called, for the procurement of supplies, services, or construction;

(4) "Construction," and "constructed," in addition to their ordinary meaning, repair, demolition, and alteration;

(5) "Construction management," any project delivery system based on an agreement whereby a construction manager provides leadership to the construction process through a series of services to the purchasing agency;

(6) "Construction manager," any person or entity that provides construction management services for a purchasing agency, and is either a construction manager-agent or construction manager-at-risk;

(7) "Construction manager-agent," any construction manager that provides construction management services to a purchasing agency in a fiduciary capacity;

(8) "Construction manager-at-risk," any construction manager that assumes the risk for construction, rehabilitation, alteration, or repair of a public improvement and that provides construction management services to the purchasing agency;

(9) "Design-build contract," any contract between a purchasing agency and a design-builder to furnish the architecture, engineering, and related services as required, and the labor, materials, and other construction services for a public improvement. A design-build contract may be conditioned upon future refinements in scope and price, and may permit the purchasing agency to make changes in the scope of the project without invalidating the design-build contract;

(10) "Design-build proposal," an offer to enter into a design-build contract;

(11) "Design-build request for proposals," any document or publication whereby a purchasing agency solicits proposals for a design-build contract;

(12) "Design-builder," any person that proposes to design and construct a public improvement covered by the procedures of this chapter and chapters 5-18B, 5-18C, and 5-18D;

(13) "Environmentally preferable product," any cleaning or maintenance product having properties that minimize potential impacts to human health and the environment, any product designed to conserve energy and water, any biobased product, and any product containing recycled materials or recovered materials;

(14) "Internet," the international computer network of both federal and nonfederal interoperable packet switched data networks, including the graphical subnetwork called the world wide web;

(15) "Invitation for bids," any document, whether attached or incorporated by reference, used for soliciting bids;

(16) "Officer," any elected official or administrative officer appointed to that position by the governing body;

(17) "Performance criteria," requirements for the public improvement, including as appropriate, capacity, durability, production standards, ingress and egress requirements, building code requirements, or other criteria for the intended use of the public improvement, expressed in performance-oriented specifications or drawings suitable to allow the design-builder to make a proposal;

(18) "Performance criteria developer," any person and the person's subcontractors retained by the purchasing agency to develop performance criteria;

(19) "Professional services," services arising out of a vocation, calling, occupation, or employment involving specialized knowledge, labor, or skill, and the labor or skill involved is predominantly mental or intellectual, rather than physical or manual;

(19A) "Prohibited entity," an organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company, or other entity or business association, including all wholly owned subsidiaries, majority-owned subsidiaries, parent companies, or affiliates, of those entities or business associations, regardless of their principal place of business, which is ultimately owned or controlled by:

(a) A foreign parent entity from the People's Republic of China, the Republic of Cuba, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Russian Federation, or the Bolivarian Republic of Venezuela; or

(b) The government of the People's Republic of China, the Republic of Cuba, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Russian Federation, or the Bolivarian Republic of Venezuela.

A prohibited entity does not include a citizen or legal permanent resident of the United States, or an individual foreign national;

(20) "Proposal," any offer to enter into contract in response to a request for proposals;

(21) "Purchasing agency," any governmental body or officer authorized by law, administrative rule, or delegated authority, to enter into contracts;

(22) "Public improvement," the process of building, altering, repairing, improving, or demolishing any public infrastructure facility, including any structure, building, or other improvements of any kind to real property, the cost of which is payable from taxes or other funds under the control of the purchasing agency, and includes any local improvement for which a special assessment is to be levied;

(23) "Qualified agency," any public or private nonprofit corporation geographically located in the State of South Dakota that provides services for persons with disabilities and is certified by the Department of Human Services;

(24) "Request for proposals," any document, whether attached or incorporated by reference, utilized by a purchasing agency when soliciting proposals for contracts for the procurement of supplies, services, or construction;

(25) "Request for qualifications," the document or publication whereby a purchasing agency solicits interested design-builders to pre-qualify for a design-build contract;

(26) "Resident," any person, partnership, association, limited liability company, foreign limited liability company, corporation, or foreign corporation licensed to do business within this state that has maintained a substantial and bona fide place of business and has conducted business from within this state for at least one year prior to the date on which a contract was awarded. The members of the partnership or association shall have been bona fide residents of the state for one year or more immediately prior to bidding upon the contract. A foreign corporation licensed pursuant to §§ 47-1A-1501 to 47-1A-1532, inclusive, is not a resident as defined by this section if the state or country in which it is organized enforces or has a preference for resident bidders;

(26A) "Reverse auction," a purchasing process in which bidders submit bids in competing to sell supplies or nonprofessional services in an open environment via the internet;

(27) "Sealed bid or proposal," a response to an invitation for bids or request for proposals submitted in a manner where the contents of the bid or proposal cannot be opened or viewed before the date and time of the formal opening without leaving evidence that the bid or proposal has been opened or viewed;

(28) "Services," furnishing of labor, time, or effort by a contractor not involving the delivery of a specific end product other than reports which are merely incidental to the required performance;

(29) "Supplies," any property, including equipment, materials, and printing;

(30) "Surety," a bond or undertaking executed by a surety company authorized to do business in the State of South Dakota and countersigned by an agent of the company resident in the State of South Dakota. However, nothing in this subdivision requires countersignature of a bid bond.

Section 2. That chapter 5-18A be amended with a NEW SECTION:

A purchasing agency may not execute a contract that is subject to § 5-18A-14, 5-18A-40, 5-18B-29, 5-18B-44, or 5-18D-17 with a prohibited entity. A purchasing agency may rely on a contractor's certification, made pursuant to section 3 of this Act, without conducting any further investigative research or inquiry.

Section 3. That chapter 5-18A be amended with a NEW SECTION:

A request for proposal, an invitation to bid, or any other document issued by a purchasing agency, with the intent of soliciting responses for the potential award of a contract, must include notice of the certification requirement of this section.

Each bidder or offeror shall, at the time a bid or offer is submitted, or at the time a contract that is subject to § 5-18A-14, 5-18A-40, 5-18B-29, 5-18B-44, or 5-18D-17 is awarded or renewed, certify, in writing, that the bidder or offeror is not a prohibited entity.

If at any time thereafter, any party to a contract subject to § 5-18A-14, 5-18A-40, 5-18B-29, 5-18B-44, or 5-18D-17 becomes a prohibited entity, that party must provide written notification to the purchasing agency. Upon receiving the notification, the agency may terminate the contract.

Section 4. That chapter 5-18A be amended with a NEW SECTION:

The commissioner of the Bureau of Administration, or the commissioner's designee, or the governing board of a unit of local government, as applicable, may waive the prohibition set forth in section 2 of this Act and the certification required in section 3 of this Act, except as prohibited by federal law, if:

(1) Compliance is not possible;

(2) The supplies or services subject to the contract are unique or would be otherwise unavailable; or

(3) There is no other market participant.

Section 5. That chapter 5-18A be amended with a NEW SECTION:

Any certification that falsely indicates a person is not a prohibited entity at the time of certification, and any failure to provide written notification to the purchasing agency that a person has become a prohibited entity as required by section 3 of this Act, is cause to suspend or debar a business under § 5-18D-12.

Signed March 22, 2023

LOCAL GOVERNMENT GENERALLY

Chapter 19

(House Bill 1239)

An Act to prohibit a ban of fuel gas appliances used by consumers.

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

Section 1. That chapter 6-1 be amended with a NEW SECTION:

No local ordinance or regulation may prohibit the use, production, manufacture, or transport of fuel gas appliances within the state. This section does not apply to a generally applicable zoning ordinance, building regulation, or fire code if the ordinance, regulation, or code is not used to prohibit the use, production, manufacture, or transport of fuel gas appliances within the state.

For the purpose of this Act, the term, fuel gas, means natural gas or propane.

Signed March 14, 2023

Chapter 20

(Senate Bill 174)

An Act to prohibit the enactment or implementation of an ordinance, resolution, or policy that prohibits the use of an energy utility service.

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

Section 1. That chapter 6-1 be amended with a NEW SECTION:

No local governmental unit, as defined in § 6-1-12, may enact or implement any ordinance, resolution, or policy that prohibits or has the effect of prohibiting the use, production, or transportation of natural gas, propane, or any other fuel gas service as a type or class of service. This section does not apply to a generally applicable zoning ordinance, building regulation, or fire code if the ordinance, regulation, or code is not used to affect a prohibition on the use, production, or transportation of natural gas, propane, or any other fuel gas service as a type or class of service.

Signed March 14, 2023

COUNTIES

Chapter 21

(Senate Bill 56)

An Act to revise requirements to relocate a county seat.

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

Section 1. That § 7-6-4 be AMENDED:

7-6-4. ~~If fifteen~~To relocate a county seat, a petition signed by twenty percent of the registered voters of the county, based upon the total number of registered voters at the last preceding general election, ~~of any organized county petition the board of~~ must be filed with the county ~~commissioners to change the location of the county seat which has once been located by majority vote, specifying the place to which it is to be changed,~~ auditor on or before July first. The county auditor shall, within thirty days of receiving the petition, verify that the signatures on the petition are registered voters of the county. A signature on a petition is invalid if signed more than six months before the date the petition is filed.

If the county auditor verifies that the petition meets the requirements of this section, the board of county commissioners shall submit the ~~same~~ question of relocating the county seat to the people of the county at the next general election. ~~Notice~~

The county auditor shall publish notice of the submission of the question ~~shall be included in the notice published once by the county auditor giving notice of the time and place of holding~~ with the general election notices required by § 12-12-1.

Section 2. That § 7-6-7 be AMENDED:

7-6-7. ~~It shall be the duty of~~ If the question to relocate the county seat is approved by the voters as specified in § 7-6-5, the county officers whose offices are required by law to be kept at the county seat~~, to~~ shall remove their respective offices, files, records, office fixtures, furniture, and all other property pertaining to their offices to the county seat designated by the voters within~~ thirty days~~ one year after~~ such county seat shall have been designated by the voters~~ the date of an election held under~~ the provisions of~~ this chapter or the end of any recount, certiorari proceeding, or election contest, whichever is latest.

Signed February 28, 2023

Chapter 22

(House Bill 1057)

An Act to allow for the appointment of county coroner by all counties.

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

Section 1. That § 7-7-1.4 be AMENDED:

7-7-1.4. Notwithstanding the provisions of § 7-7-1.1, the board of county commissioners in any county~~ with a population of sixty thousand or more~~ may, by resolution, appoint a coroner who shall serve at the pleasure of such board. However, no board of county commissioners may exercise the authority granted pursuant to this section unless:

(1) Not later than the April first preceding the election for coroner, the board, by resolution, adopts the appointment option; and

(2) The appointment of any appointed coroner may not take effect until the expiration of the term of office of any duly elected coroner.

Signed February 22, 2023

TOWNSHIPS

Chapter 23

(House Bill 1147)

An Act to provide for the organization of townships or fractions of townships.

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

Section 1. That § 8-1-8 be AMENDED:

8-1-8. Any township or fraction of a township may be organized,

reorganized, divided, or merged with another township or fraction of a township, subject to approval by the voters in the affected civil townships and the affected portions of unorganized congressional townships as provided in §§ 8-1-7 to 8-1-10, inclusive, if:

(1) The board of county commissioners proposes that the townships or fractions of townships be reorganized, divided, or merged; ~~or~~

(2) The affected township boards propose to the board of county commissioners that the townships or fractions of townships be reorganized, divided, or merged; or

(3) A majority of the registered voters residing in ~~the affected portions of~~ the affected townships petition the board of county commissioners to propose that the townships or fractions of townships be organized, reorganized, divided, or merged.

Section 2. That § 8-1-9 be AMENDED:

8-1-9. If the conditions of subdivision 8-1-8(1), (2), or (3) are met, the board of county commissioners ~~shall~~ must hold a public hearing to consider the proposed organization, reorganization, division, or merger. The hearing may be conducted in conjunction with a regularly scheduled meeting of the board of county commissioners. At least twenty days before the hearing, the board of county commissioners shall publish notice of the hearing in the official newspapers of the county and shall send the notice to the township clerk and to each member of the board of supervisors of the affected townships.

Signed March 6, 2023

Chapter 24

(House Bill 1148)

An Act to clarify registration and residence requirements for voting at a township meeting.

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

Section 1. That § 8-3-7 be AMENDED:

8-3-7. No person may vote at any township meeting unless the person is registered to vote in the township pursuant to chapter 12-4 and resides in ~~the~~ that township. For the purposes of this section, a person resides in the township if the person actually lives in the township for at least thirty consecutive days each year, is a full-time postsecondary education student who resided in the township immediately prior to leaving for the postsecondary education, or is on active duty as a member of the armed forces whose home of record is within the township. A voter's qualification as a resident may be challenged in the manner provided in § 12-18-10. No election may be contested on the grounds that any nonresident was allowed to vote if the nonresident was not challenged in the manner provided in § 12-18-10.

Section 2. That § 8-3-9 be AMENDED:

8-3-9. If any person is challenged as being unqualified when offering to

vote at any township election or upon any question arising at any township meeting ~~is challenged as unqualified~~ relating to a person's residency, the judges, or township clerk, if no judges are present, ~~shall proceed thereupon in like manner as the judges at the general election are required to proceed, adapting the oath to the circumstances of the township meeting~~ must have the person sign an affidavit attesting to the person's residency and qualification to vote. A person who makes a false affirmation is guilty of a Class 2 misdemeanor pursuant to § 8-3-8.

Signed March 21, 2023

MUNICIPAL GOVERNMENT

Chapter 25
(Senate Bill 88)

An Act to amend a provision allowing municipalities to jointly license and regulate intercity services.

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

Section 1. That § 9-35-11 be AMENDED:

9-35-11. The governing body of each municipality in this state is empowered and vested with exclusive jurisdiction to license, regulate, ~~prescribe just and reasonable rates and charges,~~ fix the routes of travel, and the speed and point for stops, of all motor carriers of passengers, operators of taxicabs and motor buses conducting operations in such municipality or in a zone adjacent thereto not a part of another municipality and not to exceed two miles around the boundaries of such municipality. When such transportation service is being rendered between adjoining municipalities, the governing bodies of each municipality may ~~by concurrent official action fix the rates and charges for~~ act jointly to regulate intercity service.

Signed February 27, 2023

TAXATION

Chapter 26
(Senate Bill 29)

An Act to revise certain references to the Internal Revenue Code.

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

Section 1. That § 10-1-47 be AMENDED:

10-1-47. The term, United States Internal Revenue Code, or Internal Revenue Code, means the United States Internal Revenue Code as amended and in effect on January 1, ~~2022~~ 2023. This section applies to §§ 10-4-9.1, 10-4-9.2, 10-4-9.3, 10-4-9.4, 10-4-39, 10-6-157, and 10-43-10.1, and subdivisions 10-6A-1(7), 10-6B-1(5), 10-18A-1(6), 10-43-10.3(6), and 10-45A-1(5).

Signed February 2, 2023

Chapter 27

(Senate Bill 120)

An Act to increase an amount of property value owned by a local industrial development corporation that is exempt from taxation.

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

Section 1. That § 10-4-8.1 be AMENDED:

10-4-8.1. ~~Seven hundred fifty thousand~~ Two million five hundred thousand dollars of the full and true value of the total amount of real property or portion of real property owned by a local industrial development corporation, defined pursuant to § 5-14-23, is exempt from property taxation. The full and true value of the real property that is in excess of ~~seven hundred fifty thousand~~ two million five hundred thousand dollars shall be taxed as other real property of the same class is taxed. No real property which is leased to an entity not otherwise exempt from property taxes, pursuant to chapter 10-4, may receive a property tax exemption pursuant to this section. No real property located in a tax increment financing district, created pursuant to chapter 11-9, may receive a property tax exemption pursuant to this section.

Signed March 23, 2023

Chapter 28

(Senate Bill 132)

An Act to revise the appointment of legislators to the Agricultural Land Assessment Implementation and Oversight Advisory Task Force.

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

Section 1. That § 10-6-134 be AMENDED:

10-6-134. There is hereby established the Agricultural Land Assessment Implementation and Oversight Advisory Task Force. The task force ~~shall consist~~ consists of the following fourteen members:

(1) The speaker of the House of Representatives shall appoint four members of the House of Representatives~~, no more than two of whom may be from one political party~~. The speaker shall appoint members in a manner that

is proportional to a party's representation in the House of Representatives, except the speaker shall appoint at least one member from the minority party in the House of Representatives;

(2) The speaker of the House of Representatives shall appoint three members of the general public, at least one of the members shall have an agricultural background and at least one of the members shall have a business background;

(3) The president pro tempore of the Senate shall appoint four members of the Senate~~, no more than two of whom may be from one political party~~. The president pro tempore shall appoint members in a manner that is proportional to a party's representation in the Senate, except the president pro tempore shall appoint at least one member from the minority party in the Senate; and

(4) The president pro tempore of the Senate shall appoint three members of the general public, at least one of the members shall have an agricultural background and at least one of the members shall have a business background.

The speaker of the House of Representatives and president pro tempore of the Senate before the close of each regular session of the Legislature held in odd-numbered years shall appoint members to the task force for a term of two years. If there is a vacancy on the task force, the vacancy shall be filled in the same manner as the original appointment.

The task force shall advise the department regarding the rules promulgated by the department to administer the provisions concerning the assessment and taxation of agricultural lands and shall review the implementation of the provisions of law concerning the assessment and taxation of agricultural land. The task force shall report to the Senate and House of Representatives and may submit a copy of its report to the Governor. The task force may present draft legislation and policy recommendations to the Legislative Research Council Executive Board.

Signed March 8, 2023

Chapter 29

(Senate Bill 26)

An Act to transfer a property tax relief program, to change income requirements for certain property tax relief programs, and to index certain income schedules to inflation.

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

Section 1. That a NEW SECTION be added to title 10:

Terms as used in this act mean:

(1) "Base year," for those heads of households who reached seventy years of age in or prior to 1994, the base year is 1994. For those heads of households who reach seventy years of age subsequent to 1994, the base year is the year in which they reach the age of seventy. In the case of a surviving spouse, the base year is the year that would have been the base

year of the deceased spouse;

(2) "Department," the Department of Revenue;

(3) "Head of household," a married person, a single person, a widow or widower, or a divorced person;

(4) "Household," the association of persons who live in the same dwelling, sharing its furnishings, facilities, and accommodations, but not including bona fide lessees, tenants, or roomers and boarders on contract;

(5) "Secretary," the secretary of the Department of Revenue;

(6) "Single-family dwelling," a house, condominium apartment, or manufactured home as defined in § 32-3-1 that is assessed and taxed as a separate unit, including the platted lot upon which the structure is situated or one acre, whichever is less, and the garage, whether attached or unattached;

(7) "Surviving spouse," the spouse of a deceased head of household who has not remarried.

Section 2. That a NEW SECTION be added to title 10:

Any person making an application under the provisions of this chapter is entitled to a prohibition on the collection of real property taxes upon the person's single-family dwelling if the person has:

(1) Owned a single-family dwelling, in fee or by contract to purchase, for at least three years, or has been a resident of South Dakota for at least five years;

(2) Resided for at least eight months of the previous calendar year in the single-family dwelling;

(3) Established a base year;

(4) A household income, as defined in § 10-6A-1, of less than sixteen thousand dollars if the household is a single-member household; and

(5) A household income, as defined in § 10-6A-1, of less than twenty thousand dollars if the household is a multiple-member household.

Beginning on January 1, 2024, the household income listed in subdivisions (4) and (5) of this section shall increase annually by the index factor. The index factor is the annual percentage change in the consumer price index for urban wage earners and clerical workers as computed by the Bureau of Labor Statistics of the United States Department of Labor for the year before the year immediately preceding the year of adjustment or the annual percentage change in federal social security payments for the preceding year, whichever is greater.

Section 3. That a NEW SECTION be added to title 10:

To be eligible for the prohibition on the collection of real property taxes under this chapter, a person must submit an application annually on or before April first to the county treasurer in the county where the person's property is located. The application must be made on forms prescribed by the secretary in rules promulgated pursuant to chapter 1-26. The secretary shall make available to each county treasurer, forms for the property tax program. Each county treasurer shall, upon request of an applicant, assist the applicant in completing the forms.

Section 4. That a NEW SECTION be added to title 10:

An applicant for a prohibition on the collection of real property taxes under this chapter must include such documentary evidence as the county treasurer deems necessary to assure validity of the claim.

Section 5. That a NEW SECTION be added to title 10:

The county treasurer shall make the final determination whether an applicant seeking a prohibition on the collection of real property taxes pursuant to this chapter is qualified. A county treasurer shall maintain records showing the property taxes that have been not collected under this chapter.

Section 6. That a NEW SECTION be added to title 10:

Any person aggrieved by the denial in whole or in part of relief claimed under the provisions of this chapter may, within thirty days after receiving notice of the denial by the county treasurer, demand and shall receive a hearing, upon notice, before the secretary on the question. The hearing shall be conducted and appeals allowed in the manner specified in chapter 1-26.

Section 7. That a NEW SECTION be added to title 10:

A person is not eligible for a refund of property taxes pursuant to chapter 10-18A if the person receives property tax relief pursuant to this chapter.

Section 8. That a NEW SECTION be added to title 10:

Property taxes that the county is prohibited from collecting pursuant to this chapter become a lien on the property for which the taxes are imposed. Interest at the Category E rate as established in § 54-3-16 must be imposed on any taxes that are not paid pursuant to this chapter. The county must file a copy of such lien with the register of deeds. No property on which the county is prohibited from collecting property taxes pursuant to this chapter may be transferred unless the property taxes and interest are paid in full.

Section 9. That a NEW SECTION be added to title 10:

Property taxes that a county is prohibited from collecting pursuant to this chapter may not be considered delinquent and the county may not publish the name of any person whose property taxes are not paid pursuant to this chapter.

Section 10. That a NEW SECTION be added to title 10:

The property taxes and interest that are not collected pursuant to this chapter may not exceed the value of the property upon which the taxes are imposed.

Section 11. That a NEW SECTION be added to title 10:

If any person, entity, or trust chooses to pay any property taxes that have not been collected pursuant to this chapter, the payments apply to the oldest property taxes and the interest thereon. If a person qualifies for a prohibition on the collection of real property taxes pursuant to this chapter, nothing in those sections may be construed to prohibit a county treasurer from accepting payment for the real property taxes from any person, entity, or trust that submits payment to a county treasurer.

Section 12. That § 10-4-24.12 be AMENDED:

10-4-24.12. The percentage tax reduction of real property taxes, as provided pursuant to § 10-4-24.11, due or paid on a single family dwelling for a single member household is according to the following schedule:

If household income is ~~more than~~at least:	but ~~not more~~ less than	The tax due reduction on current levy is:
$ 0	$14,000	100%
~~14,001~~14,000	15,000	75%
~~15,001~~15,000	17,000	50%
~~17,001~~17,000	18,000	25%
~~over~~ 18,000		0%

Section 13. That § 10-4-24.13 be AMENDED:

10-4-24.13. The percentage tax reduction of real property taxes, as provided pursuant to § 10-4-24.11, due or paid on a single family dwelling for a multiple member household is according to the following schedule:

If household income is ~~more than~~at least	but ~~not more than~~less than	The tax due reduction on current levy is:
$ 0	$ 18,500	100%
~~18,501~~18,500	19,500	75%
~~19,501~~19,500	21,000	50%
~~21,001~~21,000	22,000	25%
~~over~~ 22,000		0%

Section 14. That chapter 10-4 be amended with a NEW SECTION:

Beginning on January 1, 2024, each household income value listed in the schedules in §§ 10-4-24.12 and 10-4-24.13 shall increase annually by the index factor. The index factor is the annual percentage change in the consumer price index for urban wage earners and clerical workers as computed by the Bureau of Labor Statistics of the United States Department of Labor for the year before the year immediately preceding the year of adjustment or the annual percentage change in federal social security payments for the preceding year, whichever is greater.

Section 15. That § 10-6B-6 be AMENDED:

10-6B-6. The amount of reduction of real property taxes due for a single-member household made pursuant to this chapter shall be according to the following schedule:

If household income is at least:	but ~~not more than~~less than	The reduction of real property taxes due shall be
$ 0	~~$4,200~~$14,000	~~35%~~100%
~~4,201~~14,000	~~4,288~~15,000	~~34%~~75%
~~4,289~~15,000	~~4,376~~17,000	~~33%~~50%
~~4,377~~17,000	~~4,464~~18,000	~~32%~~25%
~~4,465~~18,000	~~4,552~~	~~31%~~0%

~~4,553~~	~~4,640~~	~~30%~~
~~4,641~~	~~4,728~~	~~29%~~
~~4,729~~	~~4,816~~	~~28%~~
~~4,817~~	~~4,904~~	~~27%~~
~~4,905~~	~~4,992~~	~~26%~~
~~4,993~~	~~5,080~~	~~25%~~
~~5,081~~	~~5,168~~	~~24%~~
~~5,169~~	~~5,256~~	~~23%~~
~~5,257~~	~~5,344~~	~~22%~~
~~5,345~~	~~5,432~~	~~21%~~
~~5,433~~	~~5,520~~	~~19%~~
~~5,521~~	~~5,608~~	~~18%~~
~~5,609~~	~~5,669~~	~~17%~~
~~5,670~~	~~5,757~~	~~16%~~
~~over 5,758~~		~~No reduction~~

Section 16. That § 10-6B-7 be AMENDED:

10-6B-7. The amount of reduction of real property taxes due for a multiple-member household made pursuant to this chapter is according to the following schedule:

If household income is at least:	but ~~not more~~ less than	The reduction of real property taxes due shall be
$ 0	~~$5,640~~18,500	~~55%~~100%
~~5,641~~18,500	~~5,758~~19,500	~~53%~~75%
~~5,759~~19,500	~~5,876~~21,000	~~51%~~50%
~~5,877~~21,000	~~5,994~~22,000	~~49%~~25%
~~5,995~~22,000	~~6,112~~	~~47%~~0%
~~6,113~~	~~6,230~~	~~45%~~
~~6,231~~	~~6,348~~	~~43%~~
~~6,349~~	~~6,466~~	~~41%~~
~~6,467~~	~~6,584~~	~~39%~~
~~6,585~~	~~6,702~~	~~37%~~
~~6,703~~	~~6,820~~	~~35%~~
~~6,821~~	~~6,938~~	~~33%~~
~~6,939~~	~~7,056~~	~~31%~~
~~7,057~~	~~7,174~~	~~29%~~
~~7,175~~	~~7,292~~	~~27%~~
~~7,293~~	~~7,410~~	~~25%~~
~~7,411~~	~~7,528~~	~~24%~~
~~7,529~~	~~7,646~~	~~23%~~
~~7,647~~	~~7,764~~	~~22%~~
~~over 7,765~~		~~No reduction~~

Section 17. That chapter 10-6B be amended with a NEW SECTION:

Beginning on January 1, 2024, each household income value listed in the schedules in §§ 10-6B-6 and 10-6B-7 shall increase annually by the index factor. The index factor is the annual percentage change in the consumer price index for urban wage earners and clerical workers as computed by the Bureau of Labor Statistics of the United States Department of Labor for the year before the year immediately preceding the year of adjustment or the annual percentage change in federal social security payments for the preceding year, whichever is greater.

Section 18. That § 43-31-31 be REPEALED:

~~Terms as used in this act mean:~~

~~(1) "Base year," for those heads of households who reached seventy years of age in or prior to 1994, the base year is 1994. For those heads of households who will reach seventy years of age subsequent to 1994, the base year is the year in which they will reach the age of seventy. In the case of a surviving spouse, the base year is the year which would have been the base year of the deceased spouse;~~

~~(2) "Department," the Department of Revenue;~~

~~(3) "Head of household," a married person, a single person, a widow or widower, or a divorced person;~~

~~(4) "Household," the association of persons who live in the same dwelling, sharing its furnishings, facilities, and accommodations, but not including bona fide lessees, tenants, or roomers and boarders on contract;~~

~~(5) "Secretary," the secretary of the Department of Revenue;~~

~~(6) "Single-family dwelling," a house, condominium apartment, or manufactured home as defined in § 32-3-1 which is assessed and taxed as a separate unit including the platted lot upon which the structure is situated or one acre, whichever is less, and the garage, whether attached or unattached;~~

~~(7) "Surviving spouse," the spouse of a deceased head of household who has not remarried.~~

Section 19. That § 43-31-32 be REPEALED:

~~Any person making an application under the provisions of §§ 43-31-31 to 43-31-41, inclusive, is entitled to a prohibition on the collection of real property taxes upon the person's single-family dwelling if the following conditions are met:~~

~~(1) Has owned a single-family dwelling, in fee or by contract to purchase, for at least three years, or has been a resident of South Dakota for at least five years;~~

~~(2) Has resided for at least eight months of the previous calendar year in the single-family dwelling;~~

~~(3) Has established a base year;~~

~~(4) Has a household income as defined in § 10-6A-1 of less than sixteen thousand dollars if the household is a single-member household; and~~

~~(5) Has a household income as defined in § 10-6A-1 of less than twenty thousand dollars if the household is a multiple-member household.~~

Section 20. That § 43-31-33 be REPEALED:

~~Applications for a prohibition on the collections of real property taxes under §§ 43-31-31 to 43-31-41, inclusive, shall be made annually on or before April first on forms prescribed by the secretary of revenue. Forms shall be made available to county treasurers who shall, upon request of an applicant, assist the applicant in completing the forms.~~

Section 21. That § 43-31-34 be REPEALED:

~~Application for a prohibition on the collection of real property taxes shall include such documentary evidence as the county treasurer deems necessary to assure validity of the claim.~~

Section 22. That § 43-31-35 be REPEALED:

~~The county treasurer shall make the final determination whether an applicant seeking a prohibition on the collection of real property taxes pursuant to §§ 43-31-31 to 43-31-41, inclusive, is qualified. A county treasurer shall maintain records showing the property taxes that have been not collected under of §§ 43-31-31 to 43-31-41, inclusive.~~

Section 23. That § 43-31-36 be REPEALED:

~~Any person aggrieved by the denial in whole or in part of relief claimed under the provisions of §§ 43-31-31 to 43-31-41, inclusive, may, within thirty days after receiving notice of such denial by the county treasurer, demand and shall receive a hearing, upon notice, before the secretary on the question. The hearing shall be conducted and appeals allowed in the manner specified in chapter 1-26.~~

Section 24. That § 43-31-37 be REPEALED:

~~No person is eligible for a refund of property taxes pursuant to chapter 10-18A if such person receives property tax relief pursuant to §§ 43-31-31 to 43-31-41, inclusive.~~

Section 25. That § 43-31-38 be REPEALED:

~~Property taxes which the county is prohibited from collecting pursuant to §§ 43-31-31 to 43-31-41, inclusive, shall become a lien on the property for which such taxes are imposed. Interest at the Category E rate as established in § 54-3-16 shall be imposed on any taxes which are not paid pursuant to §§ 43-31-31 to 43-31-41, inclusive. The county shall file a copy of such lien with the register of deeds. No property on which the county is prohibited from collecting property taxes pursuant to §§ 43-31-31 to 43-31-41, inclusive, may be transferred unless the property taxes and interest are paid in full.~~

Section 26. That § 43-31-39 be REPEALED:

~~Property taxes which a county is prohibited from collecting pursuant to §§ 43-31-31 to 43-31-41, inclusive, may not be considered delinquent and the county may not publish the name of any person whose property taxes are not paid pursuant to §§ 43-31-31 to 43-31-41, inclusive.~~

Section 27. That § 43-31-40 be REPEALED:

~~The property taxes and interest that are not collected pursuant to §§ 43-31-31 to 43-31-41, inclusive, may not exceed the value of the property upon which the taxes are imposed.~~

Section 28. That § 43-31-41 be REPEALED:

~~If any person, entity, or trust chooses to pay any property taxes which have not been collected pursuant to §§ 43-31-31 to 43-31-41, inclusive, such payments shall apply to the oldest property taxes and the interest thereon. If a person qualifies for a prohibition on the collection of real property taxes pursuant to §§ 43-31-31 to 43-31-41, inclusive, nothing in those sections may be construed to prohibit a county treasurer from accepting payment for the real property taxes from any person, entity, or trust that submits payment to a county treasurer.~~

Signed February 2, 2023

Chapter 30

(Senate Bill 24)

An Act to revise property tax levies for school districts and to revise the state aid to general and special education formulas.

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

Section 1. That § 10-12-42 be AMENDED:

10-12-42. For taxes payable in ~~2023~~ 2024 and each year thereafter, the levy for the general fund of a school district shall be as follows:

(1) The maximum tax levy ~~shall be six~~ is six dollars and ~~thirty and eight-tenths~~ eleven and three-tenths cents per thousand dollars of taxable valuation subject to the limitations on agricultural property as provided in subdivision (2) of this section and owner-occupied property as provided in subdivision (3) of this section;

(2) The maximum tax levy on agricultural property for the school district ~~shall be~~ is one dollar and ~~thirty-six and two-tenths~~ thirty-two cents per thousand dollars of taxable valuation. If the district's levies are less than the maximum levies as stated in this section, the levies shall maintain the same proportion to each other as represented in the mathematical relationship at the maximum levies; and

(3) The maximum tax levy for an owner-occupied single-family dwelling as defined in § 10-13-40 for the school district ~~shall be three~~ is two dollars and ~~four and eight-tenths~~ ninety-five and four-tenths cents per thousand dollars of taxable valuation. If the district's levies are less than the maximum levies as stated in this section, the levies shall maintain the same proportion to each other as represented in the mathematical relationship at the maximum levies.

All levies in this section shall be imposed on valuations where the median level of assessment represents eighty-five percent of market value as determined by the Department of Revenue. These valuations shall be used for all school funding purposes. If the district has imposed an excess levy pursuant to § 10-12-43, the levies shall maintain the same proportion to each other as represented in the mathematical relationship at the maximum levies in this section. The school district may elect to tax at less than the maximum amounts set forth in this section.

Section 2. That § 13-13-10.1 be AMENDED:

13-13-10.1. The education funding terms and procedures referenced in this chapter are defined as follows:

(1) Nonresident students who are in the care and custody of the Department of Social Services, the Unified Judicial System, the Department of Corrections, or other state agencies and are attending a public school may be included in the fall enrollment of the receiving district when enrolled in the receiving district;

(2) "Fall enrollment," is calculated as follows:

(a) Determine the number of kindergarten through twelfth grade students enrolled in all schools operated by the school district on the last Friday of September of the current school year, and add to that number the product of 0.10 multiplied by the number of children who participated in the prior school year in high school interscholastic activities sanctioned or sponsored by the South Dakota High School Activities Association, as permitted by § 13-36-7, while receiving alternative instruction pursuant to § 13-27-3;

(b) Subtract the number of students for whom the district receives tuition except for:

(i) Nonresident students who are in the care and custody of a state agency and are attending a public school district; and

(ii) Students who are being provided an education pursuant to § 13-28-11;

(c) Add the number of students for whom the district pays tuition.

When computing state aid to education for a school district pursuant to § 13-13-73, the secretary of the Department of Education shall use the school district's fall enrollment;

(3) "Target teacher ratio factor," is:

(a) For school districts with a fall enrollment of two hundred or less, the target teacher ratio factor is 12;

(b) For districts with a fall enrollment of greater than two hundred, but less than six hundred, the target teacher ratio factor is calculated as follows:

(i) Multiplying the fall enrollment by .00750;

(ii) Adding 10.50 to the product of subsection (b)(1);

(c) For districts with a fall enrollment of six hundred or greater, the target teacher ratio factor is 15.

The fall enrollment used for the determination of the target teacher ratio for a school district may not include any students residing in a residential treatment facility when the education program is operated by the school district;

(4) "English learner (EL) adjustment," is calculated by multiplying 0.25 times the number of kindergarten through twelfth grade students who, in the prior school year, scored below level four on the state-administered language proficiency assessment as required in the state's consolidated

state application pursuant to § 1111(b)(2)(G) of the Every Student Succeeds Act of 2015. For the 2021-2022 calculation only, the EL adjustment is calculated by multiplying 0.25 times the number of kindergarten through twelfth grade students who scored below level four on the state-administered language proficiency assessment in school year 2019-2020 or 2020-2021, whichever is greater;

(5) "Index factor," is the annual percentage change in the consumer price index for urban wage earners and clerical workers as computed by the Bureau of Labor Statistics of the United States Department of Labor for the year before the year immediately preceding the year of adjustment or three percent, whichever is less;

(6) "Target teacher salary," for the school fiscal year beginning July 1, ~~2022~~ 2023, is ~~$55,756.31~~ $59,659.25. Each school fiscal year thereafter, the target teacher salary is the previous fiscal year's target teacher salary increased by the index factor;

(7) "Target teacher benefits," is the target teacher salary multiplied by twenty-nine percent;

(8) "Target teacher compensation," is the sum of the target teacher salary and the target teacher benefits;

(9) "Overhead rate," is thirty-eight and seventy-eight hundredths percent.

Beginning in school fiscal year 2018, the overhead rate shall be adjusted to take into account the sum of the amounts that districts exceed the other revenue base amount;

(10) "Local need," is calculated as follows:

(a) Divide the fall enrollment by the target teacher ratio factor;

(b) If applicable, divide English Learner (EL) adjustment pursuant to subdivision (4) by the target teacher ratio factor;

(c) Add the results of subsections (a) and (b);

(d) Multiply the result of subsection (c) by the target teacher compensation;

(e) Multiply the product of subsection (d) by the overhead rate;

(f) Add the products of subsections (d) and (e);

(g) When calculating local need at the statewide level, include the amounts set aside for costs related to technology in schools and statewide student assessments; and

(h) When calculating local need at the statewide level, include the amounts set aside for sparse school district benefits, calculated pursuant to §§ 13-13-78 and 13-13-79;

(11) "Alternative per student need," is calculated as follows:

(a) Add the total need for each school district for school fiscal year 2016, including the small school adjustment and the English learner adjustment, to the lesser of the amount of funds apportioned to each school district in the year preceding the most recently completed school fiscal year or school fiscal year 2015 pursuant to §§ 13-13-4, 23A-27-25, 10-33-24, 10-36-10, 11-7-73, 10-35-21, and 10-43-77; and

(b) Divide the result of (a) by the September 2015 fall enrollment, excluding any adjustments based on prior year student counts;

(12) "Alternative local need," is the alternative per student need multiplied by the fall enrollment, excluding any adjustments based on prior year student counts;

(13) "Local effort," the amount of ad valorem taxes generated in a school fiscal year by applying the levies established pursuant to § 10-12-42. Beginning on July 1, 2017, local effort will include the amount of funds apportioned to each school district in the year preceding the most recently completed school fiscal year pursuant to §§ 10-33-24, 10-35-21 as provided by subdivision (15), 10-36-10, 10-43-77, 11-7-73, 13-13-4, and 23A-27-25 and that exceeds the other revenue base amount;

(14) "Other revenue base amount," for school districts not utilizing the alternative local need calculation is the amount of funds apportioned to each school district pursuant to §§ 10-33-24, 10-35-21 as provided by subdivision (15), 10-36-10, 10-43-77, 11-7-73, 13-13-4, and 23A-27-25, calculated as follows:

(a) Beginning on July 1, 2017, equals the greatest of the amounts of the funds apportioned to each school district pursuant to §§ 10-33-24, 10-35-21 as provided by subdivision (15), 10-36-10, 10-43-77, 11-7-73, 13-13-4, and 23A-27-25 for school fiscal years 2013, 2014, and 2015;

(b) Beginning on July 1, 2018, multiply eighty percent times subsection (a);

(c) Beginning on July 1, 2019, multiply sixty percent times subsection (a);

(d) Beginning on July 1, 2020, multiply forty percent times subsection (a);

(e) Beginning on July 1, 2021, multiply twenty percent times subsection (a); and

(f) Beginning on July 1, 2022, is zero;

For school districts utilizing the alternative local need calculation, the other revenue base amount is zero until such time the school district chooses to no longer utilize the alternative local need calculation. At that time, the other revenue base amount is calculated as defined above.

For a school district created or reorganized after July 1, 2016, the other revenue base amount is the sum of the other revenue base amount for each district before reorganization, and the new school district may not utilize the alternative local need calculation.

In the case of the dissolution and annexation of a district, the other revenue base amount of the dissolved school district will be prorated based on the total number of students in the fall enrollment as defined in subdivision (2) who attend each district to which area of the dissolved district were annexed to in the first year of reorganization. The amount apportioned for each district will be added to the annexed districts' other revenue base;

(15) "Wind energy tax revenue," any wind energy tax revenue apportioned to school districts pursuant to § 10-35-21 from a wind farm producing power for the first time before July 1, 2016, shall be considered local effort pursuant to subdivision (13) and other revenue base amount pursuant to

subdivision (14). However, any wind energy tax revenue apportioned to a school district from a wind farm producing power for the first time after June 30, 2016, one hundred percent shall be retained by the school district to which the tax revenue is apportioned for the first five years of producing power, eighty percent for the sixth year, sixty percent for the seventh year, forty percent for the eighth year, twenty percent for the ninth year, and zero percent thereafter. If a wind farm begins producing power for the first time between October first and December thirty-first in a calendar year, any revenues generated for that time period must be retained by the school district and that time period may not be counted against the first five-year period;

(16) "Per student equivalent," for funding calculations that are determined on a per student basis, the per student equivalent is calculated as follows:

(a) Multiply the target teacher compensation times the sum of one plus the overhead rate; and

(b) Divide subsection (a) by 15;

(17) "Monthly cash balance," the total amount of money for each month in the school district's general fund, calculated by adding all deposits made during the month to the beginning cash balance and deducting all disbursements or payments made during the month;

(18) "General fund base percentage," is determined as follows:

(a) Forty percent for a school district with a fall enrollment as defined in subdivision (2) of two hundred or less;

(b) Thirty percent for a school district with fall enrollment as defined in subdivision (2) of more than two hundred but less than six hundred; and

(c) Twenty-five percent for a school district with fall enrollment as defined in subdivision (2) greater than or equal to six hundred.

When determining the general fund base percentage, the secretary of the Department of Education shall use the lesser of the school district's fall enrollment as defined in subdivision (2) for the current school year or the school district's fall enrollment from the previous two years; and

(19) "Allowable general fund cash balance," the general fund base percentage multiplied by the district's general fund expenditures in the previous school year.

Section 3. That § 13-37-16 be AMENDED:

13-37-16. For taxes payable in ~~2023~~ 2024, and each year thereafter, the school board shall levy no more than one dollar and ~~fifty-nine and nine-tenths~~ fifty-seven and four-tenths cents per thousand dollars of taxable valuation, as a special levy in addition to all other levies authorized by law for the amount so determined to be necessary, and the levy shall be spread against all of the taxable property of the district. The proceeds derived from the levy shall constitute a school district special education fund of the district for the payment of costs for the special education of all children in need of special education or special education and related services who reside within the district pursuant to the provisions of §§ 13-37-8.4 to 13-37-8.10, inclusive. The levy in this section shall be based on valuations such that the median level of assessment represents eighty-five percent of market value as determined by the Department of Revenue. The total amount of taxes that would be generated at the levy pursuant to this section shall be

considered local effort. Money in the special education fund may be expended for the purchase or lease of any assistive technology that is directly related to special education and specified in a student's individualized education plan. This section does not apply to real property improvements.

Section 4. That § 13-37-35.1 be AMENDED:

13-37-35.1. Terms used in chapter 13-37 mean:

(1) "Level one disability," a mild disability;

(2) "Level two disability," cognitive disability or emotional disorder;

(3) "Level three disability," hearing impairment, deafness, visual impairment, deaf-blindness, orthopedic impairment, or traumatic brain injury;

(4) "Level four disability," autism;

(5) "Level five disability," multiple disabilities;

(5A) "Level six disability," prolonged assistance;

(6) "Index factor," is the annual percentage change in the consumer price index for urban wage earners and clerical workers as computed by the Bureau of Labor Statistics of the United States Department of Labor for the year before the year immediately preceding the year of adjustment or three percent, whichever is less;

(7) "Local effort," shall be calculated for taxes payable in ~~2023~~ 2024 and thereafter using a special education levy of one dollar and ~~thirty-nine and nine-tenths~~ thirty-seven and four-tenths cents per one thousand dollars of valuation;

(8) "Allocation for a student with a level one disability," for the school fiscal year beginning July 1, ~~2022~~ 2023, is ~~$6,532.00~~ $6,989.24. For each school year thereafter, the allocation for a student with a level one disability shall be the previous fiscal year's allocation for such child increased by the index factor;

(9) "Allocation for a student with a level two disability," for the school fiscal year beginning July 1, ~~2022~~ 2023, is ~~$15,411.00~~ $16,489.77. For each school year thereafter, the allocation for a student with a level two disability shall be the previous fiscal year's allocation for such child increased by the index factor;

(10) "Allocation for a student with a level three disability," for the school fiscal year beginning July 1, ~~2022~~ 2023, is ~~$19,682.00~~ $21,059.74. For each school year thereafter, the allocation for a student with a level three disability shall be the previous fiscal year's allocation for such child increased by the index factor;

(11) "Allocation for a student with a level four disability," for the school fiscal year beginning July 1, ~~2022~~ 2023, is ~~$15,981.00~~ $17,099.67. For each school year thereafter, the allocation for a student with a level four disability shall be the previous fiscal year's allocation for such child increased by the index factor;

(12) "Allocation for a student with a level five disability," for the school fiscal year beginning July 1, ~~2022~~ 2023, is ~~$34,293.00~~ $36,693.51. For each school year thereafter, the allocation for a student with a level five disability shall be the previous fiscal year's allocation for such child increased by the index factor;

(12A) "Allocation for a student with a level six disability," for the school fiscal year beginning July 1, ~~2022~~ 2023, is ~~$9,066.00~~ $9,700.62. For each school year thereafter, the allocation for a student with a level six disability shall be the previous fiscal year's allocation for such child increased by the index factor;

(13) "Child count," is the number of students in need of special education or special education and related services according to criteria set forth in rules promulgated pursuant to §§ 13-37-1.1 and 13-37-46 submitted to the Department of Education in accordance with rules promulgated pursuant to § 13-37-1.1;

(14) "Fall enrollment," the number of kindergarten through twelfth grade students enrolled in all schools operated by the school district on the last Friday of September of the previous school year minus the number of students for whom the district receives tuition, except any nonresident student who is in the care and custody of a state agency and is attending a public school and any student for whom tuition is being paid pursuant to § 13-28-42.1, plus the number of students for whom the district pays tuition;

(15) "Nonpublic school," a sectarian organization or entity which is accredited by the secretary of education for the purpose of instructing children of compulsory school age. This definition excludes any school that receives a majority of its revenues from public funds;

(16) "Nonpublic fall enrollment," the number of children under age eighteen, who are approved for alternative instruction pursuant to § 13-27-2 on the last Friday of September of the previous school year plus:

(a) For nonpublic schools located within the boundaries of a public school district with a fall enrollment of six hundred or more on the last Friday of September of the previous school year, the number of kindergarten through twelfth grade students enrolled on the last Friday of September of the previous regular school year in all nonpublic schools located within the boundaries of the public school district;

(b) For nonpublic schools located within the boundaries of a public school district with a fall enrollment of less than six hundred on the last Friday of September of the previous school year, the number of resident kindergarten through twelfth grade students enrolled on the last Friday of September of the previous school year in all nonpublic schools located within the State of South Dakota;

(17) "Special education fall enrollment," fall enrollment plus nonpublic fall enrollment;

(18) "Local need," an amount to be determined as follows:

(a) Multiply the special education fall enrollment by 0.1072 and multiply the result by the allocation for a student with a level one disability;

(b) Multiply the number of students having a level two disability as reported on the child count for the previous school fiscal year by the allocation for a student with a level two disability;

(c) Multiply the number of students having a level three disability as reported on the child count for the previous school fiscal year by the allocation for a student with a level three disability;

(d) Multiply the number of students having a level four disability as reported on the child count for the previous school fiscal year by the allocation for a student with a level four disability;

(e) Multiply the number of students having a level five disability as reported on the child count for the previous school fiscal year by the allocation for a student with a level five disability;

(f) Multiply the number of students having a level six disability as reported on the child count for the previous school fiscal year by the allocation for a student with a level six disability;

(g) When calculating local need at the statewide level, include the amount set aside for extraordinary costs defined in § 13-37-40;

(h) When calculating local need at the statewide level, include the amount set aside for the South Dakota School for the Blind and Visually Impaired;

(i) Sum the results of (a) to (h), inclusive;

(19) "Effort factor," the school district's special education tax levy in dollars per thousand divided by ~~$1.399~~ $1.374. The maximum effort factor is 1.0.

Signed March 20, 2023

Chapter 31

(House Bill 1034)

An Act to modify tax refunds for elderly persons and persons with a disability, to make an appropriation therefor, and to declare an emergency.

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

Section 1. There is hereby appropriated from the general fund the sum of $450,000 to the Department of Revenue, for purposes of providing refunds for real property tax and sales tax to elderly and disabled persons pursuant to chapters 10-18A and 10-45A. A portion of the appropriated sum not to exceed twenty thousand dollars may be used for the administrative costs of this Act.

Section 2. The secretary of the Department of Revenue shall approve vouchers and the state auditor shall draw warrants to pay expenditures authorized by this Act.

Section 3. Any amounts appropriated in this Act not lawfully expended or obligated by June 30, 2024, shall revert in accordance with the procedures prescribed in chapter 4-8.

Section 4. That § 10-18A-5 be AMENDED:

10-18A-5. The amount of refund of real property taxes due or paid for a single-member household made pursuant to this chapter shall be according to the following schedule:

If household income is more than:	but not more than	The refund of real property taxes due or paid shall be
$ 0	$~~7,028~~8,949	35%
~~7,029~~8,950	~~7,303~~9,199	34%
~~7,304~~9,200	~~7,579~~9,449	33%
~~7,580~~9,450	~~7,855~~9,699	32%
~~7,856~~9,700	~~8,130~~9,949	31%
~~8,131~~9,950	~~8,406~~10,199	30%
~~8,407~~10,200	~~8,681~~10,449	29%
~~8,682~~10,450	~~8,957~~10,699	28%
~~8,958~~10,700	~~9,233~~10,949	27%
~~9,234~~10,950	~~9,508~~11,199	26%
~~9,509~~11,200	~~9,784~~11,449	25%
~~9,785~~11,450	~~10,059~~11,699	24%
~~10,060~~11,700	~~10,335~~11,949	23%
~~10,336~~11,950	~~10,611~~12,199	22%
~~10,612~~12,200	~~10,886~~12,449	21%
~~10,887~~12,450	~~11,162~~12,699	20%
~~11,163~~12,700	~~11,437~~12,949	19%
~~11,438~~12,950	~~11,713~~13,199	18%
~~11,714~~13,200	~~11,989~~13,449	17%
~~11,990~~13,450	~~12,264~~13,699	16%
~~12,265~~13,700	~~12,540~~13,949	15%
~~12,541~~13,950	~~12,815~~14,199	14%
~~12,816~~14,200	~~13,091~~14,449	13%
~~13,092~~14,450	~~13,367~~14,699	12%
~~13,368~~14,700	~~13,653~~14,949	11%
over ~~13,653~~14,949		No refund

Section 5. That § 10-18A-6 be AMENDED:

10-18A-6. The amount of refund of real property taxes due or paid for a multiple-member household made pursuant to this chapter shall be according to the following schedule:

If household income is more than:	but not more than	The refund of real property taxes due or paid shall be
$ 0	$~~11,575~~13,841	55%
~~11,576~~13,842	~~11,958~~14,191	53%
~~11,959~~14,192	~~12,341~~14,541	51%
~~12,342~~14,542	~~12,723~~14,891	49%
~~12,724~~14,892	~~13,106~~15,241	47%

~~13,107~~15,242	~~13,489~~15,591	45%
~~13,490~~15,592	~~13,871~~15,941	43%
~~13,872~~15,942	~~14,254~~16,291	41%
~~14,255~~16,292	~~14,636~~16,641	39%
~~14,637~~16,642	~~15,019~~16,991	37%
~~15,020~~16,992	~~15,402~~17,341	35%
~~15,403~~17,342	~~15,784~~17,691	33%
~~15,785~~17,692	~~16,167~~18,041	31%
~~16,168~~18,042	~~16,550~~18,391	29%
~~16,551~~18,392	~~16,932~~18,741	27%
~~16,933~~18,742	~~17,315~~19,091	25%
~~17,316~~19,092	~~17,698~~19,441	23%
~~17,699~~19,442	~~18,080~~19,791	21%
~~18,081~~19,792	~~18,465~~20,141	19%
over ~~18,465~~20,141		No refund

Section 6. That § 10-45A-5 be AMENDED:

10-45A-5. The amount of any claim made pursuant to this chapter by a claimant from a household consisting solely of one person shall be determined as follows:

(1) If the claimant's income is ~~seven thousand twenty eight~~ eight thousand nine hundred forty-nine dollars or less, a sum of two hundred fifty-eight dollars;

(2) If the claimant's income is ~~seven thousand twenty nine~~ eight thousand nine hundred fifty and not more than ~~thirteen thousand six hundred fifty three~~ fourteen thousand nine hundred forty-nine dollars, a sum of forty-six dollars plus three and four-tenths percent of the difference between ~~thirteen thousand six hundred fifty three~~ fourteen thousand nine hundred forty-nine dollars and the income of the claimant; and

(3) If the claimant's income is more than ~~thirteen thousand six hundred fifty three~~ fourteen thousand nine hundred forty-nine dollars, no refund.

Section 7. That § 10-45A-6 be AMENDED:

10-45A-6. The amount of any claim made pursuant to this chapter by a claimant from a household consisting of more than one person shall be determined as follows:

(1) If household income is ~~eleven thousand five hundred seventy five~~ thirteen thousand eight hundred forty-one dollars or less, the sum of five hundred eighty-one dollars;

(2) If household income is ~~eleven thousand five hundred seventy six~~ thirteen thousand eight hundred forty-two dollars and not more than ~~eighteen thousand four hundred sixty five~~ twenty thousand one hundred forty-one dollars, a sum of seventy-four dollars plus seven and eight-tenths percent of the difference between ~~eighteen thousand four hundred sixty five~~ twenty thousand one hundred forty-one dollars and total household income; and

(3) If household income is more than ~~eighteen thousand four hundred sixty-five~~ twenty thousand one hundred forty-one dollars, no refund.

Section 8. Whereas, this Act is necessary for the support of the state government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

Signed February 9, 2023

Chapter 32

(House Bill 1137)

An Act to reduce certain gross receipts tax rates and a use tax rate, and to repeal a conditional reduction of certain gross receipts tax rates.

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

Section 1. That § 10-45-2 be AMENDED:

10-45-2. There is hereby imposed a tax upon the privilege of engaging in business as a retailer, a tax of four ~~and one-half~~ and two-tenths percent upon the gross receipts of all sales of tangible personal property consisting of goods, wares, or merchandise, except as otherwise provided in this chapter, sold at retail in the ~~State of South Dakota~~ state to consumers or users.

Section 2. That § 10-45-5 be AMENDED:

10-45-5. There is imposed a tax at the rate of four ~~and one-half~~ and two-tenths percent upon the gross receipts of any person from engaging or continuing in any of the following businesses or services in this state: abstracters; accountants; ancillary services; architects; barbers; beauty shops; bill collection services; blacksmith shops; car washing; dry cleaning; dyeing; exterminators; garage and service stations; garment alteration; cleaning and pressing; janitorial services and supplies; specialty cleaners; laundry; linen and towel supply; membership or entrance fees for the use of a facility or for the right to purchase tangible personal property, any product transferred electronically, or services; photography; photo developing and enlarging; tire recapping; welding and all repair services, except repair services for farm machinery, attachment units, and irrigation equipment used exclusively for agricultural purposes; cable television; and rentals of tangible personal property except leases of tangible personal property between one telephone company and another telephone company, motor vehicles as defined pursuant to § 32-5-1 leased under a single contract for more than twenty-eight days, and mobile homes. However, the specific enumeration of businesses and professions made in this section does not, in any way, limit the scope and effect of the provisions of § 10-45-4.

Section 3. That § 10-45-5.3 be AMENDED:

10-45-5.3. There is imposed, at the rate of four ~~and one-half~~ and two-tenths percent, an excise tax on the gross receipts of any person engaging in oil and gas field services (group no. 138) as enumerated in the Standard Industrial Classification Manual, 1987, as prepared by the Statistical Policy Division of the Office of Management and Budget, Office of the President.

Section 4. That § 10-45-6 be AMENDED:

10-45-6. There is hereby imposed a tax of four ~~and one-half~~ and two-tenths percent upon the gross receipts from sales, furnishing, or service of gas, electricity, and water, including the gross receipts from such sales by any municipal corporation furnishing gas, and electricity, to the public in its proprietary capacity, except as otherwise provided in this chapter, when sold at retail in the State of South Dakota to consumers or users.

Section 5. That § 10-45-6.1 be AMENDED:

10-45-6.1. Except as provided in § 10-45-6.2, there is hereby imposed a tax of four ~~and one-half~~ and two-tenths percent upon the gross receipts from providing any intrastate, interstate, or international telecommunications service that originates or terminates in this state and that is billed or charged to a service address in this state, or that both originates and terminates in this state. However, the tax imposed by this section does not apply to:

(1) Any eight hundred or eight hundred-type service, unless the service both originates and terminates in this state;

(2) Any sale of a telecommunication service to a provider of telecommunication services, including access service, for use in providing any telecommunication service; or

(3) Any sale of interstate telecommunication service provided to a call center that has been certified by the secretary of revenue to meet the criterion established in § 10-45-6.3 and the call center has provided to the telecommunications service provider an exemption certificate issued by the secretary indicating that it meets the criterion.

If a call center uses an exemption certificate to purchase services not meeting the criterion established in § 10-45-6.3, the call center is liable for the applicable tax, penalty, and interest.

Section 6. That § 10-45-6.2 be AMENDED:

10-45-6.2. There is hereby imposed a tax of four ~~and one-half~~ and two-tenths percent upon the gross receipts of mobile telecommunications services, as defined in 4 U.S.C. § 124(7) as of January 1, 2002, that originate and terminate in the same state and are billed to a customer with a place of primary use in this state or are deemed to have originated or been received in this state and to be billed or charged to a service address in this state if the customer's place of primary use is located in this state regardless of where the service actually originates or terminates. Notwithstanding any other provision of this chapter and for purposes of the tax imposed by this section, the tax imposed upon mobile telecommunication services ~~shall~~ must be administered in accordance with 4 U.S.C. §§ 116-126, as in effect on July 28, 2000.

Section 7. That § 10-45-8 be AMENDED:

10-45-8. There is imposed a tax of four ~~and one-half~~ and two-tenths percent upon the gross receipts from all sales of tickets or admissions to places of amusement and athletic contests or events, except as otherwise provided in this chapter.

Section 8. That § 10-45-71 be AMENDED:

10-45-71. There is imposed a tax of four ~~and one-half~~ and two-tenths percent on the gross receipts from the transportation of passengers. The tax

imposed by this section ~~shall apply~~ applies to any transportation of passengers if the passenger boards and exits the mode of transportation within this state.

Section 9. That § 10-46-2.1 be AMENDED:

10-46-2.1. For the privilege of using services in South Dakota, except those types of services exempted by § 10-46-17.3, there is imposed on the person using the service an excise tax equal to four ~~and one-half~~ and two-tenths percent of the value of the services at the time they are rendered. However, this tax may not be imposed on any service rendered by a related corporation, as defined in subdivision 10-43-1(11), for use by a financial institution, as defined in subdivision 10-43-1(4); or on any service rendered by a financial institution, as defined in subdivision 10-43-1(4), for use by a related corporation as defined in subdivision 10-43-1(11). For the purposes of this section, the term, related corporation, includes a corporation, which together with the financial institution, is part of a controlled group of corporations, as defined in 26 U.S.C. § 1563 as in effect on January 1, 1989, except that the eighty percent ownership requirements set forth in 26 U.S.C. § 563(a)(2)(A) for a brother-sister controlled group are reduced to fifty-one percent. For the purpose of this chapter, services rendered by an employee for the use of ~~his~~ the employer are not taxable.

Section 10. That § 10-46-2.2 be AMENDED:

10-46-2.2. An excise tax is imposed upon the privilege of the use of rented tangible personal property and any product transferred electronically in this state at the rate of four ~~and one-half~~ and two-tenths percent of the rental payments upon the property.

Section 11. That § 10-46-58 be AMENDED:

10-46-58. There is imposed a tax of four ~~and one-half~~ and two-tenths percent on the privilege of the use of any transportation of passengers. The tax imposed by this section ~~shall apply~~ applies to any transportation of passengers if the passenger boards and exits the mode of transportation within this state.

Section 12. That § 10-46-69 be AMENDED:

10-46-69. There is hereby imposed a tax of four ~~and one-half~~ and two-tenths percent upon the privilege of the use of mobile telecommunications services, as defined in 4 U.S.C. § 124(7) as of January 1, 2002, that originate and terminate in the same state and are billed to a customer with a place of primary use in this state. Notwithstanding any other provision of this chapter and for purposes of the tax imposed by this section, the tax imposed upon mobile telecommunication services ~~shall~~ must be administered in accordance with 4 U.S.C. §§ 116-126, as in effect on July 28, 2000.

Section 13. That § 10-46-69.1 be AMENDED:

10-46-69.1. Except as provided in § 10-46-69, there is hereby imposed a tax of four ~~and one-half~~ and two tenths percent upon the privilege of the use of any intrastate, interstate, or international telecommunications service that originates or terminates in this state and that is billed or charged to a service address in this state, or that both originates and terminates in this state. However, the tax imposed by this section does not apply to:

(1) Any eight hundred or eight hundred type service unless the service both originates and terminates in this state;

(2) Any sale of a telecommunication service to a provider of telecommunication services, including access service, for use in providing any telecommunication service; or

(3) Any sale of interstate telecommunication service provided to a call center that has been certified by the secretary of revenue to meet the criterion established in § 10-45-6.3 and the call center has provided to the telecommunications service provider an exemption certificate issued by the secretary indicating that it meets the criterion.

If a call center uses an exemption certificate to purchase services not meeting the criterion established in § 10-45-6.3, the call center is liable for the applicable tax, penalty, and interest.

Section 14. That § 10-46-69.2 be AMENDED:

10-46-69.2. There is hereby imposed a tax of four ~~and one-half~~ and two-tenths percent upon the privilege of the use of any ancillary services.

Section 15. That § 10-46E-1 be AMENDED:

10-46E-1. There is hereby imposed an excise tax of four ~~and one-half~~ and two-tenths percent on the gross receipts from the sale, resale, or lease of farm machinery, attachment units, and irrigation equipment used exclusively for agricultural purposes. However, if any trade-in or exchange of used farm machinery, attachment units, and irrigation equipment is involved in the transaction, the excise tax is only due and may only be collected on the cash difference.

Section 16. That § 10-58-1 be AMENDED:

10-58-1. There is imposed upon owners and operators a special amusement excise tax of four ~~and one-half~~ and two-tenths percent of the gross receipts from the operation of any mechanical or electronic amusement device. The tax imposed by this section is in lieu of the tax imposed pursuant to chapter 10-45.

Section 17. That § 32-5B-20 be AMENDED:

32-5B-20. There is hereby imposed a tax of four and ~~one-half~~ two-tenths percent upon the gross receipts of any person renting a rental vehicle as defined in § 32-5B-19. This tax applies to all vehicles registered in accordance with § 32-5-6, 32-5-8.1, or 32-5-9. Any rental vehicle not licensed in accordance with § 32-5-6, 32-5-8.1, or 32-5-9 is subject to the motor vehicle excise tax in § 32-5B-1.

The tax imposed by this section is in addition to any tax levied pursuant to chapter 10-45 or 10-46 upon the rental of a rental vehicle. The provisions of chapter 10-45 apply to the administration and enforcement of the tax imposed by this section. The tax imposed by this section is in lieu of the tax levied by § 32-5B-1 on the sales of such motor vehicles. A violation of this section is a Class 1 misdemeanor.

Section 18. That § 10-64-9 be REPEALED:

~~If the state is able to enforce the obligation to collect and remit sales tax on remote sellers who deliver tangible personal property, products transferred electronically, or services directly to the citizens of South Dakota, the additional net revenue from such obligation shall be used to reduce the rate of certain taxes. The rate of tax imposed by §§ 10-45-2, 10-45-5, 10-45-5.3, 10-45-6, 10-45-6.1, 10-45-6.2, 10-45-8, 10-45-71, 10-46-2.1, 10-46-2.2, 10-46-58, 10-46-69, 10-~~

~~46-69.1, 10-46-69.2, 10-46E-1, and 10-58-1 shall be reduced by one-tenth percent on July first following the calendar year for which each additional twenty million dollar increment of net revenue is collected and remitted by such remote sellers. However, the rate of tax imposed by §§ 10-45-2, 10-45-5, 10-45-5.3, 10-45-6, 10-45-6.1, 10-45-6.2, 10-45-8, 10-45-71, 10-46-2.1, 10-46-2.2, 10-46-58, 10-46-69, 10-46-69.1, 10-46-69.2, 10-46E-1, and 10-58-1 may not be reduced below four percent pursuant to the provisions of this section.~~

Section 19. The amendments to the Code sections in sections 1 to 17, inclusive, of this Act are repealed on June 30, 2027, and those Code sections will revert in word and substance to that which existed immediately prior to the effective date of this Act.

Signed March 21, 2023

Chapter 33

(Senate Bill 147)

An Act to change provisions regarding the appointment of legislators to represent South Dakota in the Streamlined Sales and Use Tax Agreement.

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

Section 1. That § 10-45C-3 be AMENDED:

10-45C-3. The Department of Revenue is authorized and directed to enter into the Streamlined Sales and Use Tax Agreement with one or more states to simplify and modernize sales and use tax administration in order to substantially reduce the burden of tax compliance for all sellers and for all types of commerce. In furtherance of the agreement, the Department of Revenue is authorized to act jointly with other states that are members of the agreement to establish standards for certification of a certified service provider and certified automated system and establish performance standards for multistate sellers.

The Department of Revenue is further authorized to take other actions reasonably required to implement the provisions set forth in this chapter. Other actions authorized by this chapter include, but are not limited to, the adoption of rules pursuant to chapter 1-26 consistent with the Department of Revenue's rule-making authority in §§ 10-45-47.1 and 10-46-35.1 and the joint procurement, with other member states, of goods and services in furtherance of the cooperative agreement.

The secretary of revenue or the secretary's designee and ~~two~~ three legislators are authorized to represent this state before the other states that are signatories to the agreement. The Executive Board of the Legislative Research Council shall appoint ~~one senator and one representative~~ the legislators to represent this state.

Signed March 6, 2023

Chapter 34

(Senate Bill 71)

An Act to authorize other fuel taxes to be included in the state's International Fuel Tax Agreement collections.

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

Section 1. That § 10-47B-7 be AMENDED:

10-47B-7. A fuel excise tax is imposed on all motor fuel, ethyl alcohol, methyl alcohol, biodiesel, biodiesel blend, liquid natural gas, liquid petroleum gas, compressed natural gas, special fuel, or any combination thereof, used in this state in the engine fuel supply tank of qualified motor vehicles involved in interstate commerce. The tax imposed shall be at the rate indicated in § 10-47B-4.

Section 2. That § 10-47B-129 be AMENDED:

10-47B-129. Any person who has exported motor fuel, ethyl alcohol, methyl alcohol, biodiesel, biodiesel blend, liquid natural gas, liquid petroleum gas, compressed natural gas, special fuel, or any combination thereof, in the engine fuel supply tank of a qualified motor vehicle engaged in interstate commerce upon which tax has been paid to this state shall be given a credit for the amount of fuel as calculated by the provisions of the interstate user license, an interstate compact, or reciprocal agreement under which the person is licensed or governed. The credit shall be paid to the jurisdictions in which the person has accrued a fuel tax liability under the provisions of an interstate compact or reciprocal agreement. If no liability exists, the credit shall be refunded to the person.

Section 3. That § 10-47B-172 be AMENDED:

10-47B-172. The purpose of this section and §§ 10-47B-173 to 10-47B-180, inclusive, is to provide an additional method of collecting the tax on motor fuel, ethyl alcohol, methyl alcohol, biodiesel, biodiesel blend, liquid natural gas, liquid petroleum gas, compressed natural gas, special fuel, or any combination thereof, ~~taxes~~ from interstate operators of qualified motor vehicles commensurate with their operations on South Dakota highways. No person may bring into this state, in the fuel supply tanks of a licensed qualified motor vehicle, or in any other container regardless of whether it is connected to the motor of the qualified vehicle, any motor fuel, ethyl alcohol, methyl alcohol, biodiesel, biodiesel blend, liquid natural gas, liquid petroleum gas, compressed natural gas, special fuel, or any combination thereof, to be used in the operation of the qualified vehicle in this state, unless advance arrangements have been made for payment of this state's fuel tax on all fuel consumed. These advance arrangements may include the obtaining of either a permanent interstate fuel user license or a temporary single-trip fuel permit issued by the department or its authorized agent, or authorization to operate under the provisions of an interstate compact or reciprocal agreement.

Section 4. That § 10-47B-173 be AMENDED:

10-47B-173. ~~Any person who desires to obtain a permanent interstate fuel user license~~To obtain a permanent interstate fuel user license, a person shall apply for a license on a form prescribed by the department and may be required to post acceptable security in accordance with the provisions of this chapter. The secretary shall require suitable security of any license applicant who has been

delinquent in filing tax reports with the department or paying fuel tax. This license allows the holder to bring motor fuel, ethyl alcohol, methyl alcohol, biodiesel, biodiesel blend, liquid natural gas, liquid petroleum gas, compressed natural gas, special fuel, or any combination thereof, into this state in a vehicle supply tank, and for that privilege, the licensee shall pay to this state the tax on fuel consumed on the highways of this state, all in accordance with the provisions for the licensure set forth under this chapter. There is a fee of ten dollars for the initial license and a fee of ten dollars for the subsequent renewal of the license for each year thereafter. There is a fee of one dollar and fifty cents per vehicle for each set of decals requested along with a fee of one dollar for mailing each set of decals. The fees collected ~~shall~~must be deposited into the motor fuel administration fund.

Section 5. That § 10-47B-174 be AMENDED:

10-47B-174. Each qualified motor fuel, ethyl alcohol, methyl alcohol, biodiesel, biodiesel blend, liquid natural gas, liquid petroleum gas, compressed natural gas, special fuel, or any combination thereof, powered vehicle ~~which~~that operates into or through this state in interstate operations shall carry evidence of compliance with this chapter. For any carrier who is permanently licensed, a copy, photocopy, or electronic copy of the permanent license issued to the carrier ~~shall~~must be carried in each vehicle operated by the licensee within this state. No other alterations to the license or a copy of the license is allowed.

Notwithstanding any provision of this chapter, a permanent interstate fuel user licensee shall file reports with the department and remit tax to the department on a quarterly basis. The reports and remittance shall be due on the last day of the month following each quarterly period. If the due date falls on a Saturday, Sunday, legal holiday enumerated in § 1-5-1, or a day on which the Federal Reserve Bank is closed, the report or remittance is due on the next succeeding day which is not a Saturday, Sunday, legal holiday enumerated in § 1-5-1, or a day on which the Federal Reserve Bank is closed.

Section 6. That § 10-47B-176 be AMENDED:

10-47B-176. The tax liability of an interstate fuel user licensee shall be determined based on average fuel consumption for all qualified vehicles operated by the licensee within this state. Average fuel consumption is equal to the total fleet vehicle miles traveled divided by total fleet gallons of fuel consumed to calculate an average mile per gallon (AMPG) for all vehicles operated. This AMPG is then divided into the total miles traveled within South Dakota by all vehicles to determine the total gallons of fuel attributable to South Dakota operations. The gallons thus calculated shall be multiplied times the motor fuel, ethyl alcohol, methyl alcohol, biodiesel, biodiesel blend, liquid natural gas, liquid petroleum gas, compressed natural gas, special fuel, or any combination thereof, per gallon tax rate currently in force at the time the return is completed to determine the total tax due from the licensee. This tax liability ~~can~~ may be credited in the amount of any South Dakota tax on motor fuel, ethyl alcohol, methyl alcohol, biodiesel, biodiesel blend, liquid natural gas, liquid petroleum gas, compressed natural gas, special fuel, or any combination thereof, ~~tax~~ paid at the time the fuel is purchased within this state. Over purchases of motor fuel, ethyl alcohol, methyl alcohol, biodiesel, biodiesel blend, liquid natural gas, liquid petroleum gas, compressed natural gas, special fuel, or any combination thereof, which result in a tax overpayment ~~shall~~ must be refunded to the licensee in accordance with the provisions of § 10-47B-177.

Section 7. That § 10-47B-180.1 be AMENDED:

10-47B-180.1. Any person in this state who stores motor fuel, ethyl

alcohol, methyl alcohol, biodiesel, biodiesel blend, liquid natural gas, liquid petroleum gas, compressed natural gas, ~~or~~ special fuel, or any combination thereof, for sale or use in this state shall maintain records to demonstrate that all taxes imposed by this state have been paid. If it is determined that all taxes due have not been paid or if adequate records are not maintained to show that all taxes due have been paid, the fuel is subject to an assessment by the department of up to twice the tax rate on all fuel involved.

Signed February 22, 2023

Chapter 35
(Senate Bill 73)

An Act to exclude township-owned self-propelled machinery, equipment, and vehicles from fuel excise tax.

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

Section 1. That § 10-47B-13 be AMENDED:

10-47B-13. A fuel excise tax is imposed on all motor fuel, special fuel, and liquid petroleum gas used in the engine fuel supply tank of self-propelled machinery, equipment, or vehicles used in highway construction or repair work done in this state within the right-of-way, unless the self-propelled machinery, equipment, and vehicles are owned by this state, or ~~a~~ county~~or~~, municipality, or township of this state. The tax imposed ~~shall be~~ is at the rate provided for in § 10-47B-4.

Signed February 22, 2023

Chapter 36
(Senate Bill 58)

An Act to clarify that the special amusement excise tax applies to the sale of amusement devices.

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

Section 1. That § 10-58-1 be AMENDED:

10-58-1. There is imposed upon owners and operators a special amusement excise tax of four and one-half percent of the gross receipts from the sale or the operation of any mechanical or electronic amusement device. The tax imposed by this section is in lieu of the tax imposed pursuant to chapter 10-45.

Signed February 9, 2023

Chapter 37

(House Bill 1033)

An Act to provide for the uniform administration of tobacco products taxes.

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

Section 1. That § 10-59-1 be AMENDED:

10-59-1. The provisions of this chapter may only apply to proceedings commenced under this chapter concerning the taxes, the fees, the surcharges, or the persons subject to the taxes, fees, or surcharges imposed by, or any civil or criminal investigation authorized by, chapters 10-33A, 10-39, 10-39A, 10-39B, 10-43, 10-45, 10-45D, 10-46, 10-46A, 10-46B, 10-46E, 10-47B, 10-50C, 10-52, 10-52A, 10-62, 32-3, 32-3A, 32-5, 32-5B, 32-6B, 32-9, 32-10, 34-45, and 34A-13, and §§ 10-50-61, 49-31-51, and 50-4-13 to 50-4-17, inclusive.

Signed February 9, 2023

Chapter 38

(Senate Bill 30)

An Act to revise the criteria for remote sellers who must remit sales tax.

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

Section 1. That § 10-64-2 be AMENDED:

10-64-2. Notwithstanding any other provision of law, any seller selling tangible personal property, products transferred electronically, or services for delivery into South Dakota, who does not have a physical presence in the state, is subject to chapters 10-45, 10-46E, and 10-52, and shall remit the sales tax and ~~shall~~ follow all applicable procedures and requirements of law as if the seller had a physical presence in the state, provided the ~~seller meets either of the following criteria in the previous calendar year or the current calendar year:~~

~~(1) The~~ seller's gross revenue from the sale of tangible personal property, any product transferred electronically, or services delivered into South Dakota exceeds one hundred thousand dollars~~; or~~

~~(2) The seller sold tangible personal property, any product transferred electronically, or services for delivery into South Dakota in two hundred or more separate transactions~~ in the previous or current calendar year.

Signed February 9, 2023

PLANNING, ZONING AND HOUSING PROGRAMS

Chapter 39
(House Bill 1029)

An Act to revise certain provisions regarding the county zoning and appeals process.

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

Section 1. That § 11-2-17.3 be AMENDED:

11-2-17.3. A county zoning ordinance adopted under this chapter that authorizes a conditional use of real property shall specify the approving authority, each category of conditional use requiring approval, the zoning districts in which a conditional use is available, the criteria for evaluating each conditional use, and any procedures for certifying approval of certain conditional uses. The approving authority shall consider the stated criteria, the objectives of the comprehensive plan, and the purpose of the zoning ordinance and the relevant zoning districts when making a decision to approve or disapprove a conditional use request. Approval of a conditional use request requires the affirmative majority vote of the members of the approving authority who are present and voting.

Section 2. That § 11-2-17.5 be AMENDED:

11-2-17.5. A zoning ordinance adopted under this chapter may also establish a process for certification of ~~certain~~ special permitted uses upon meeting specified criteria for ~~that~~ the use. A use certified as a special permitted use under the zoning ordinance shall be approved if the applicant demonstrates that all specified criteria are met.

Section 3. That § 11-2-65.1 be AMENDED:

11-2-65.1. ~~Any special permitted use, conditional use, or variance granted under this chapter does not expire for a period of two years following completion of any final appeal of the decision.~~Any county zoning ordinance provision setting a time limit for commencement or completion of a special permitted use, conditional use, or variance granted under this chapter is tolled to allow commencement within a period of two years following completion of any final appeal of the county zoning decision. Any county zoning ordinance provision to the contrary is invalid or unenforceable and the special permitted use, conditional use, or variance shall be allowed if actual construction as approved is commenced within this period and any provision addressing timely completion shall commence only upon such actual construction. The authority constitutes a lawful use, lot, or occupancy of land or premises existing at the time of the adoption of a zoning ordinance amendment or replacement within this period or while an appeal is pending regardless of the commencement of actual construction, so that the approved use shall be allowed if upheld on final appeal.

For purposes of this section, the term, actual construction, means that construction materials are being permanently placed and the construction work is proceeding without undue delay.

Signed March 6, 2023

Chapter 40

(Senate Bill 188)

An Act to add a provision regarding the use of a designated refrigerant.

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

Section 1. That chapter 11-10 be amended with a NEW SECTION:

Notwithstanding any law, regulation, or ordinance to the contrary, the use of a refrigerant designated as acceptable for use pursuant to and in accordance with 42 U.S.C. § 7671k, as amended and in effect on January 1, 2023, is permitted, provided any equipment containing the refrigerant is listed and installed in accordance with safety standards and use conditions imposed pursuant to the designation.

Signed March 6, 2023

Chapter 41

(Senate Bill 41)

An Act to establish a program for housing infrastructure loans and grants, make an appropriation therefor, and to declare an emergency.

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

Section 1. That section 1 of chapter 238 of the 2022 Session Laws be AMENDED:

There is hereby transferred from the general fund to the ~~South Dakota Housing Opportunity fund, created in § 11-13-2~~ South Dakota housing infrastructure fund created in section 9 of this Act, the sum of $150,000,000. The South Dakota Housing Development Authority shall administer the ~~moneys so transferred~~ monies provided by this section for the purpose of providing:

(1) Loans in the sum of $100,000,000 for the construction of housing infrastructure; and

(2) Grants in the sum of $50,000,000 for the construction of housing infrastructure.

Section 2. Upon the effective date of this Act, the state treasurer shall adjust the fund balances of the South Dakota housing opportunity fund and the South Dakota housing infrastructure fund in accordance with section 1 of this Act. The state treasurer shall transfer any interest earned on the monies appropriated in section 1 of this Act to the South Dakota housing infrastructure fund created in section 9 of this Act.

Section 3. There is hereby appropriated the sum of $50,000,000 in other fund expenditure authority for the South Dakota housing infrastructure fund created in section 9 of this Act for the purpose of providing grants for the construction of housing infrastructure projects, in accordance with the provisions set forth in this Act.

Section 4. That section 2 of chapter 238 of the 2022 Session Laws be AMENDED:

Federal fund expenditure authority is hereby appropriated in the sum of $50,000,000 from the American Rescue Plan Act to the South Dakota Housing Development Authority, for the purpose of providing grants for the construction of housing infrastructure projects, in accordance with section 4 of this Act. A grant awarded with monies appropriated by this section may not be for an amount greater than one-third of a project's total cost. The authority may not provide both a grant with monies appropriated by this section and a loan from the South Dakota housing infrastructure fund for the same housing infrastructure project located in a municipality having a population of fifty thousand or more.

Section 5. That section 3 of Chapter 238 of the 2022 Session Laws be AMENDED:

~~Loans or grants~~ Grants made available ~~pursuant to this Act~~ with monies provided by section 4 of this Act must be designated as follows:

(1) Thirty percent for ~~use~~ housing infrastructure in municipalities having a population of fifty thousand or more; and

(2) Seventy percent for ~~use~~ housing infrastructure in all other areas of the state.

~~Any housing infrastructure project sited in a municipality having a population of fifty thousand or more may receive either a loan or a grant from moneys appropriated or authorized under this Act but may not receive both.~~

Section 6. That section 4 of Chapter 238 of the 2022 Session Laws be REPEALED:

~~Any grant made available by the South Dakota Housing Development Authority pursuant to this Act may not be for an amount greater than one-third of the project's total cost.~~

Section 7. That section 5 of Chapter 238 of the 2022 Session Laws be REPEALED:

~~For purposes of this Act, the term, housing infrastructure, means public:~~

~~(1) Rights of way;~~

~~(2) Water distribution systems;~~

~~(3) Sanitary and storm sewers;~~

~~(4) Streets, roads, and bridges;~~

~~(5) Curbs, gutters, and sidewalks;~~

~~(6) Lift stations;~~

~~(7) Excavation and compaction;~~

~~(8) Traffic signals;~~

~~(9) Street lighting;~~

~~(10) The purchase of land necessary to accommodate projects listed in this section; and~~

~~(11) Any other infrastructure project determined by the South Dakota Housing Development Authority to be consistent with the purposes of this Act.~~

Section 8. That a NEW SECTION be added to title 11:

Terms used in this Act mean:

(1) "Authority," the South Dakota Housing Development Authority;

(2) "Housing infrastructure," the installation, replacement, upgrade, or improvement of public infrastructure for the support of a single-family or multi-family housing project; and

(3) "Public infrastructure," a right of way, water distribution system, sanitary sewer system, storm sewer system, lift station, street, road, bridge, curb, gutter, sidewalk, traffic signal, or streetlight, which is or will be owned, maintained, or provided by a political subdivision of this state; or excavation, compaction, or acquisition of land for such purposes.

Section 9. That a NEW SECTION be added to title 11:

There is hereby created the South Dakota housing infrastructure fund, to be administered by the authority, for the purpose of making loans and grants for housing infrastructure projects. Any repayment of the principal amount of a loan, and any interest thereon must be deposited into the fund and used for making new loans. Unexpended money and any interest that may be credited to the fund shall remain in the fund. Money in the fund designated for loans is hereby continuously appropriated for the purposes provided in sections 10 and 11 of this Act. The executive director of the authority shall approve vouchers and the state auditor shall draw warrants to pay expenditures authorized from this fund.

Section 10. That a NEW SECTION be added to title 11:

The authority shall distribute monies from the South Dakota housing infrastructure fund, created in section 9 of this Act, as follows:

(1) Thirty percent for housing infrastructure in municipalities having a population of fifty thousand or more; and

(2) Seventy percent for housing infrastructure in all other areas of the state.

The authority may not provide both a grant and loan from the South Dakota housing infrastructure fund for the same housing infrastructure project located in a municipality having a population of fifty thousand or more.

Section 11. That a NEW SECTION be added to title 11:

The authority may make loans from the South Dakota housing infrastructure fund, created in Section 9 of this Act, for housing infrastructure projects. The principal amount of a loan may not exceed one-third of the total cost of the housing infrastructure project. The authority may use up to one percent of the principal amount of a loan to offset the authority's expenses in administering the loan.

Section 12. That a NEW SECTION be added to title 11:

The authority may award grants from the South Dakota housing infrastructure fund, created in section 9 of this Act, for housing infrastructure projects. The amount of the grant may not exceed one-third of the total cost of the housing infrastructure project. The authority may use up to one percent of the amount of a grant to offset the authority's expenses in administering the grant.

Section 13. That a NEW SECTION be added to title 11:

The authority shall promulgate rules, pursuant to chapter 1-26, specifying the criteria and process for the application, approval, and disbursement of loans and grants provided in this Act.

Section 14. That a NEW SECTION be added to title 11:

On or before August 1 of each year, the authority shall submit a report to the special committee, created by § 4-8A-2, detailing the number, amounts, and recipients of loans and grants provided by the South Dakota housing infrastructure fund created in Section 9 of this Act and other relevant information pertaining to the fund or program as requested by the committee.

Section 15. Whereas, this Act is necessary for the support of the state government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

Signed February 1, 2023

ELECTIONS

Chapter 42

(Senate Bill 139)

An Act to revise residency requirements for the purposes of voter registration.

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

Section 1. That § 12-1-4 be AMENDED:

12-1-4. For the purposes of this title, the term, residence, means the place in which a person ~~has fixed his or her habitation~~ is domiciled as shown by an actual fixed permanent dwelling, establishment, or any other abode ~~and~~ to which the person~~, whenever absent, intends to return~~ returns after a period of absence.

A person who ~~has left home and gone~~ leaves the residence and goes into another county of this state or another state or territory ~~or county of this state~~ for a temporary purpose ~~only~~ has not changed ~~his or her~~ residence.

A person is considered to have gained ~~a~~ residence in any county or municipality of this state in which the person actually lives, if the person has no present intention of leaving.

A person retains residence in this state until another residence has been gained. If a person moves from this state to another state~~,~~ or ~~to any of the other territories,~~ territory with the intention of making it ~~his or her~~ the person's permanent home, the person ~~thereby~~ loses residence in this state.

Section 2. That § 12-3-1 be AMENDED:

12-3-1. Every person ~~resident of~~ who, at the time of an election,

maintains residence in this state ~~who shall be of the age of~~, will be eighteen years ~~and upwards~~ of age or older on or before the next election, is not otherwise disqualified, ~~who shall have complied~~ and complies with the ~~provisions of~~ law ~~relating to~~ regarding the registration of voters pursuant to chapter 12-4, ~~shall be entitled to~~ may vote at any election in this state.

Section 3. That § 12-4-1 be AMENDED:

12-4-1. Every person ~~residing~~ who maintains residence, as provided in § 12-1-4, within the state for at least thirty days prior to submitting the registration form, and who has the qualifications of a voter prescribed by § 12-3-1 or 12-3-1.1, or who will have such qualifications at the next ensuing municipal, primary, general, or school district election, ~~shall be~~ is entitled to be registered as a voter in the ~~voting precinct in which he resides~~ election precinct in which the person maintains residence.

A person eligible to vote may vote only in the election precinct where the person maintains residence.

Section 4. That chapter 12-4 be amended with a NEW SECTION:

The voter registration form must include a certification of voter eligibility by which the applicant attests, under the penalty of perjury, that the applicant:

(1) Is a citizen of the United States;

(2) Will be eighteen years or older on or before the next election;

(3) Has maintained residence in South Dakota for at least thirty days prior to submitting the registration form;

(4) Has not been judged mentally incompetent;

(5) Is not currently serving a sentence for a felony conviction; and

(6) Authorizes the cancellation of a previous registration, if applicable.

Signed March 21, 2023

Chapter 43

(Senate Bill 55)

An Act to prohibit ranked-choice voting.

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

Section 1. That chapter 12-1 be amended with a NEW SECTION:

The State Board of Elections may not authorize and a political subdivision may not adopt or enforce in any manner a rule, resolution, charter provision, or ordinance establishing a system of voting for any office where:

(1) Voters rank candidates in order of preference;

(2) Tabulation proceeds in rounds where in each round either a candidate is elected or the last-place candidate is eliminated;

(3) Votes are transferred from elected or eliminated candidates to the voter's next-ranked candidate in order of preference; and

(4) Tabulation ends when a candidate receives the majority of votes cast or the number of candidates elected equals the number of offices to be filled.

Signed March 21, 2023

Chapter 44

(Senate Bill 140)

An Act to revise certain provisions relating to voter registration.

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

Section 1. That § 12-4-1 be AMENDED:

12-4-1. ~~Every~~ A person residing within the state who has the qualifications of a voter prescribed by § 12-3-1 or 12-3-1.1, or who will have such qualifications at the next ensuing municipal, primary, general, or school district election, ~~shall be~~ is entitled to be registered as a voter in the voting precinct in which ~~he~~ the person resides.

Section 2. That § 12-4-3.2 be AMENDED:

12-4-3.2. Any private entity or individual registering a person to vote shall file the completed registration form with the ~~county~~ county auditor within ten days or by the next voter registration deadline, whichever occurs first. A violation of this section is a Class 2 misdemeanor.

Section 3. That § 12-4-4.2 be AMENDED:

12-4-4.2. ~~The purpose of §§~~Sections 12-4-4.2 to 12-4-4.9, inclusive, ~~is to~~ implement the Uniformed and Overseas Citizens Absentee Voting Act, ~~42 U.S.C. §§ 1973ff-1 - 1973ff-6, (Jan. 1, 1996)~~ 52 U.S.C. § 20301 et seq., as of January 1, 2023.

Section 4. That § 12-4-4.12 be AMENDED:

12-4-4.12. If a voter is identified as being covered by the Uniformed and Overseas Citizens Absentee Voting Act ~~(42 U.S.C. 1973ff-1) as of January 1, 2010~~, 52 U.S.C. § 20301 et seq., as of January 1, 2023, the voter may register to vote through the system provided by the Office of the Secretary of State.

Section 5. That § 12-4-5.2 be AMENDED:

12-4-5.2. The county auditor or the person responsible for the conduct of a local election shall give notice of the availability of registration officials and state when registration will be terminated and the effect of ~~a failure to have registered~~ not registering to vote. ~~Such notice shall be published~~ The county auditor or the person responsible for the conduct of a local election shall publish the notice online and in official newspapers at least once each week for two consecutive weeks, the last publication to be not less than ten nor more than fifteen days before the deadline for registration. A township, conservation district, sanitation district, fire district, or any special district is not required to post a notice online if the district does not have an official website.

Section 6. That § 12-4-5.3 be AMENDED:

12-4-5.3. When a voter registration application is received by the county auditor, the county auditor or an individual designated by the county auditor shall review the application for eligibility and completeness. If the applicant is not eligible to be registered or sufficient information to complete the registration card cannot be obtained from the applicant, the ~~applicant shall be sent~~ county auditor must send an acknowledgment notice by nonforwardable mail to the applicant indicating the reason the registration was not filed. ~~In addition, the~~ The acknowledgment notice ~~shall~~ must state that the ~~voter~~ applicant needs to submit the corrected information to the county auditor within thirty days or the voter registration form may not be processed. ~~Any applicant whose registration is accepted~~ The county auditor shall ~~be sent~~ send an acknowledgment notice by nonforwardable mail to the applicant whose registration is accepted. ~~The acknowledgment notice shall be prescribed by the State Board of Elections and sent by nonforwardable mail~~ The State Board of Elections shall promulgate rules, pursuant to chapter 1-26, prescribing the form of the acknowledgement notice. The same confirmation mailing required by § 12-4-19 ~~shall~~ must be sent immediately to any person whose registration acknowledgment notice is returned undeliverable.

Section 7. That § 12-4-5.5 be AMENDED:

12-4-5.5. At the time voter registration information is transmitted from a county to the statewide voter registration file, the secretary of state shall verify the authenticity of the driver license number or the South Dakota nondriver identification number ~~shall be verified~~ with the driver license database. If the ~~person has provided the~~ last four digits of ~~his or her~~ the person's social security number have been provided, the secretary of state shall review the social security database ~~shall be checked~~ to determine that the number, name, and date of birth are accurate and that this information ~~does belong~~ belongs to ~~such~~ the person. If any of this information is reported as not being accurate, the county auditor ~~shall~~ must withdraw the voter registration and attempt to get the correct information with the process provided in § 12-4-5.3. The State Board of Elections ~~may~~ shall promulgate rules, pursuant to chapter 1-26, determining technical parameters for the driver license and social security database verification.

Section 8. That § 12-4-8.1 be AMENDED:

12-4-8.1. In lieu of forms for registration prescribed under § 12-4-8, requests for absentee ballots submitted in accordance with the Uniformed and Overseas Citizens Absentee Voting Act ~~(UOCAVA) (42 U.S.C. § 1973ff) shall be~~, 52 U.S.C. § 20301 et seq., as of January 1, 2023, are sufficient for registration purposes. The county auditor shall make and file the index card for the master file and attach the card thereto and shall save an electronic copy of the card. ~~a~~ The county auditor shall supply a photocopy ~~shall be supplied~~ to the election board of the precinct for the purposes of § 12-19-2.

Section 9. That § 12-4-10 be AMENDED:

12-4-10. The county auditor shall provide from the master registration file, in paper or electronic format, a separate list of the names and addresses of all registered voters in each voting precinct as established pursuant to chapter 12-14, § 9-13-16, or 13-7-11 in the county, which shall be known as the precinct registration list. The county auditor shall design the list for any voting precinct ~~shall be designed~~ so that each name can be distinctly marked ~~whenever~~ when the ~~registrant presents himself or herself for voting~~ voter requests a ballot and ~~shall~~ must contain a space in which may be recorded the record of any challenge,

affidavit, or other information as may be required. The precinct superintendent or precinct deputy ~~Each entry~~ shall ~~be made by the precinct superintendent or precinct deputies~~ make each entry when the voter ~~presents himself or herself for voting~~ requests a ballot.

Section 10. That § 12-4-15 be AMENDED:

12-4-15. A person may designate or change that person's party affiliation, name, ~~or~~ address, phone number, or email address by completing a new registration card. ~~For any registration card completed by a person changing that person's party affiliation, name, or address, if the field for party affiliation is left blank~~ If a person completes a registration card to change that person's name, address, phone number, or email address, and leaves the field for party affiliation blank, the county auditor must list the person's party affiliation ~~shall be~~ as the most recent party affiliation registered for that person. ~~For any registration card completed by a person who is registering to vote for the first time in this state, if the field for party affiliation is left blank~~ If a person completes a registration card to register to vote for the first time in the state and leaves the field for party affiliation blank, the county auditor must register that person's party affiliation ~~shall be registered~~ as ~~independent or~~ no party affiliation.

Section 11. That § 12-4-18 be AMENDED:

12-4-18. The clerk of courts shall, within fifteen days after the close of each month, prepare ~~and deliver to the auditor~~ an abstract from the records of the names of persons declared mentally incompetent in the preceding month. The clerk of courts ~~notice~~ shall ~~be sent~~ send the name of a person declared mentally incompetent to the county auditor of the county in which the person declared incompetent resides.

The county auditor shall remove from the master registration list ~~the~~:

(1) The names of persons identified as mentally incompetent in accordance with the information provided pursuant to this section ~~and~~;

(2) The names of those sentenced to imprisonment in the federal penitentiary system; and ~~may remove~~

(3) The names published in an obituary.

~~Voter~~ The county auditor shall match voter registration records maintained in or transmitted to the statewide voter registration file ~~shall be matched~~ with the death records maintained as vital statistics records by the Department of Health, the social security death index, the Social Security Administration master death file, and the records of felony convictions maintained by the Unified Judicial System each month. ~~Any~~ Any voter identified as deceased ~~or~~, as mentally incompetent, or who is serving a sentence for a felony conviction ~~shall be removed~~ must be removed from the voter registration records.

The State Board of Elections ~~may~~ shall promulgate rules, pursuant to chapter 1-26, determining how voter registration records ~~shall be~~ are matched.

Prior to providing a registration list to precincts, as prescribed in § 12-4-10, the county auditor must certify with the secretary of state that all individuals required to be removed from the master registration list have been removed based on the information available to the county auditor at the time the certification is submitted. The State Board of Elections shall promulgate rules, pursuant to chapter 1-26, prescribing the form to certify the accuracy of the master registration list.

Section 12. That § 12-4-24 be AMENDED:

12-4-24. The county auditor shall complete and make available to the official charged with the conduct of a local election at least one day preceding the election a precinct registration list and the person in charge of the election shall deliver the list to each of ~~his~~ the superintendents of election.

Section 13. That § 12-4-34 be AMENDED:

12-4-34. If a statute refers to registered voters, it does not include those in the inactive registration file unless specifically included. ~~However, any~~ Any voter in the inactive registration file may sign a petition.

Section 14. That § 12-4-37 be AMENDED:

12-4-37. The secretary of state shall establish and maintain a computerized system for maintaining and utilizing the voter registration file and transmitting voter registration information from each county auditor to the Office of the Secretary of State. The State Board of Elections shall promulgate rules, pursuant to chapter 1-26, to develop and implement procedures to secure the computerized system used for the voter registration file from external threats that could damage the integrity of the voter registration system.

Each county auditor shall transmit any changes to the master registration file or the absentee voter log to the secretary of state on a daily basis. The county auditor shall transmit updated information contained in the county voter registration system, including voter registration information and voter election history information, to the Office of the Secretary of State not later than July fifteenth after each primary election and December fifteenth after each general election.

Section 15. That chapter 12-4 be amended with a NEW SECTION:

By March first of each year, the secretary of state shall submit a report to the State Board of Elections providing the number of voters removed from the county's voter registration list from the previous year due to inactivity, death, felony conviction, mental incompetence, or relocation to another jurisdiction.

The State Board of Elections shall promulgate rules, pursuant to chapter 1-26, designating the form and content of the report. The content of each report must be made available for public inspection on the official website of the secretary of state.

Section 16. That chapter 12-4 be amended with a NEW SECTION:

On the first business day of each month and on the date of a primary, general, runoff, or special election in the state, the secretary of state shall publish the following information on the official website of the secretary of state:

(1) The total number of registered voters in each county of the state;

(2) The total number of registered voters in each legislative district in the state;

(3) The total number of voters registered as a member of a political party in each county of the state;

(4) The total number of voters registered as a member of a political party in each legislative district in the state;

(5) The total number of inactive voters in each county in the state; and

(6) The total number of inactive voters in each legislative district of this state.

The State Board of Elections shall promulgate rules, pursuant to chapter 1-26, designating the form for online publication of the information listed in this section.

Section 17. That chapter 12-4 be amended with a NEW SECTION:

A person registered to vote, pursuant to this chapter, may request that the auditor of the county in which the voter resides remove the person's name from the master registration list. If a person makes a request pursuant to this section less than fourteen days prior to an election, the removal of the individual's name is effective on the day after the election. The State Board of Elections shall promulgate rules, pursuant to chapter 1-26, prescribing the form to be used by a person requesting the removal of the person's name from the master registration list.

Section 18. That chapter 12-4 be amended with a NEW SECTION:

Within fifteen days after the close of each month, each clerk of court shall forward to the county auditor of the clerk's county information on any individual called for jury duty who is excused from jury duty because the individual has moved, has been convicted of a felony, has been declared mentally incompetent, is deceased, or is not a citizen of the United States. Upon receipt of the information, the county auditor shall investigate to determine if the reported individual is listed in the county's master registration file and whether the individual is eligible to be registered as a voter.

The county auditor shall remove from the master registration list:

(1) The names of persons identified as mentally incompetent in accordance with the information provided pursuant to this section or § 12-4-18;

(2) The names of those sentenced to imprisonment in the federal penitentiary system;

(3) The names of deceased voters published in an obituary, reported by a county coroner, or recorded in the death records maintained as vital statistics records by the Department of Health; and

(4) The names of those who are not citizens of the United States.

Signed March 21, 2023

Chapter 45

(Senate Bill 86)

An Act to require candidates for party precinct committeeman or committeewoman to include an email address and phone number in the written statement submitted to the county auditor.

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

Section 1. That § 12-5-4 be AMENDED:

12-5-4. A candidate for party precinct ~~committeeman or~~

~~committeewoman~~ committeeman or committeewoman shall file a statement in writing~~, with the county auditor of the county in which he or she is a candidate~~, with the county auditor of the county in which he or she is a candidate, not later than the last Tuesday in March before the primary election. The statement ~~shall~~ must include the candidate's email address and phone number and must state that the candidate:

(1) Is a resident of the precinct;

(2) Is registered as a member of the political party named in the statement;

(3) Is a candidate for precinct ~~committeeman or committeewoman, as the case may be~~ committeeman or committeewoman, as the case may be;

(4) Is desirous of serving in that position; and

(5) If elected, will ~~qualify and~~ serve in the office.

The statement, when properly filed, ~~shall operate~~ operates as a nominating petition for that office.

Signed March 8, 2023

Chapter 46

(House Bill 1112)

An Act to modify provisions for a statewide runoff election.

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

Section 1. That § 12-6-51.1 be AMENDED:

12-6-51.1. If no candidate for United States Senate, United States House of Representatives, or Governor in a race involving three or more candidates receives thirty-five percent of the votes of the candidate's party, a runoff election shall be held ~~ten~~ eight weeks from the date of the first primary election. At the runoff election the only persons voted for shall be the two candidates receiving the highest number of votes at the first election. ~~However, if~~ If there is a tie for second place in the first primary election and there is no tie for first place, all tying second place candidates ~~shall~~ must be placed along with the first place candidate on the ballot for the runoff election. The runoff election ~~shall~~ must be held ~~at the same polling places, be conducted, returned, and canvassed and the results declared~~ in the same manner as the first election. However, if the runoff election does not have a federal race, the electronic ballot marking system is not required, and hand-counted ballots may be used. The person receiving the highest number of votes at the runoff election is nominated as the candidate for the party.

Signed March 6, 2023

Chapter 47

(Senate Bill 102)

An Act to require the continued maintenance of the official list of candidates prior to an election.

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

Section 1. That chapter 12-12 be amended with a NEW SECTION:

The secretary of state shall maintain a list of candidates approved to appear on the ballot in a statewide primary, general, or special election. The list must be updated as new candidates are approved, withdrawn, or otherwise removed from the ballot. The list must provide the candidate's name, address, county, and, if applicable to the office sought, the candidate's legislative district and political party. The list of candidates must be open to public inspection and available on the official website of the secretary of state.

Signed March 6, 2023

Chapter 48

(House Bill 1140)

An Act to require the secretary of state to determine if a legislatively proposed constitutional amendment complies with the single subject requirement and is not a constitutional revision.

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

Section 1. That § 12-13-26.1 be AMENDED:

12-13-26.1. Upon receiving a ~~proposed initiated~~ proposal for an amendment to the Constitution, whether initiated by petition or proposed by a joint resolution of the Legislature, the secretary of state shall determine if the proposal embraces more than one subject in violation of S.D. Const., Art. XXIII, § 1, and if it is a revision under S.D. Const., Art. XXIII, § 2.

If the secretary of state determines that the proposal complies with the single subject requirement and is not a revision, the secretary of state shall provide written certification to the sponsors, the attorney general, and the director of the Legislative Research Council that the ~~initiated amendment~~ proposal embraces only one subject and ~~is~~ would be an amendment to the Constitution under S.D. Const., Art. XXIII, § 1, if approved by the voters. The secretary of state shall publish on the secretary of state's website notice of this certification not more than fifteen working days following receipt of the ~~initiated amendment to the Constitution~~ proposal.

The secretary of state may not certify the ~~initiated amendment to the Constitution~~ proposal if it embraces more than one subject in violation of S.D. Const., Art. XXIII, § 1. The secretary of state may not certify the ~~initiated amendment to the Constitution~~ proposal if it is a revision under S.D. Const., Art. XXIII, § 2. If the secretary of state determines that the ~~initiated amendment to~~

~~the Constitution~~ proposal embraces more than one subject or is a revision, the secretary of state shall provide written notice to the sponsors explaining the reason the~~ initiated amendment to the Constitution~~ proposal is not certified and shall publish the notice on the secretary of state's website, not more than fifteen working days following receipt of the~~ initiated amendment to the Constitution~~ proposal. The sponsors of an initiated amendment may amend the initiated amendment to the Constitution in accordance with the secretary of state's explanation and resubmit the amended initiated amendment to the Constitution to the director of the Legislative Research Council for review under § 12-13-25.

For purposes of this section, the sponsors of a constitutional amendment proposed by a joint resolution of the Legislature are the presiding officers of the Legislature.

Section 2. That § 12-13-26.2 be AMENDED:

12-13-26.2. If the secretary of state does not certify~~ an initiated~~ a proposal for an amendment to the Constitution pursuant to § 12-13-26.1,~~ the sponsor~~ any interested party may directly appeal the secretary of state's decision to the Supreme Court within fifteen days~~ after receiving notice from~~ of the secretary of state publishing notice of the decision not to certify on the secretary of state's website.

Any interested party may directly appeal the secretary of state's certification of~~ an~~ a proposal for an~~ initiated~~ amendment to the Constitution pursuant to § 12-13-26.1 to the Supreme Court within fifteen days of the secretary of state publishing notice of certification on the secretary of state's website.

The Supreme Court shall promulgate rules, pursuant to chapter 16-3, defining the procedures for an appeal taken under this section.

Signed March 21, 2023

Chapter 49

(House Bill 1124)

An Act to modify provisions pertaining to the testing of automatic tabulating equipment.

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

Section 1. That § 12-17B-5 be AMENDED:

12-17B-5. Not more than ten days prior to an election, the person in charge of the election shall conduct a test of the automatic tabulating equipment to ascertain that the equipment will correctly count the votes cast for all offices and on all measures. The test must be open to the public. The person in charge of the election shall notify the county chair of each political party with a candidate on the ballot, any independent candidate or candidate without party affiliation on the ballot, and the ballot question committees for or against an initiated or referred measure or initiated constitutional amendment of the testing of the automatic tabulating equipment one week before the test is conducted.~~ Public notice of the test shall be given at least forty-eight hours prior to the test by publication once in the official newspaper of the election jurisdiction. The test shall be open to the public~~ The person in charge of the election shall post notice of the time and place

of the test in the same manner as a public meeting agenda, pursuant to § 1-25-1.1.

If an errorless count by an automatic tabulating machine is achieved by the test, the person in charge of the election shall certify the machine. The State Board of Elections shall promulgate rules, pursuant to chapter 1-26, prescribing the certification of properly functioning automatic tabulating equipment under this section.

If ~~any~~ an error is detected, the cause of the error shall be determined and corrected ~~and an errorless count shall be made before the automatic tabulating equipment is approved~~. Once the error is corrected, the person in charge of the election shall conduct a new test of the automatic tabulating equipment. The person in charge of the election may not approve the automatic tabulating equipment until an errorless count is made.

Any additional testing required to achieve an errorless count must be open to the public. The person in charge of the election shall post notice of the time and place of an additional test in the same manner as a public meeting agenda, pursuant to § 1-25-1.1. The person in charge of the election shall notify the county chair of each political party with a candidate on the ballot, any independent candidate or candidate without party affiliation on the ballot, and the ballot question committees for or against an initiated or referred measure or initiated constitutional amendment of the testing of the automatic tabulating equipment twenty-four hours prior to the test.

The secretary of state shall provide each county auditor with the contact information for any independent candidate, candidate without party affiliation appearing on the ballot, and the ballot question committees for or against an initiated or referred measure or initiated constitutional amendment in the auditor's county.

Section 2. That chapter 12-17B be amended with a NEW SECTION:

The person in charge of the election shall test the automatic tabulating equipment by processing a predetermined number of ballots on which are recorded a predetermined number of valid votes for each candidate and measure. The test of the automatic tabulating equipment must also include at least one ballot for each office that has votes exceeding the number allowed by law in order to test the ability of the automatic tabulating equipment to reject invalid votes. During the test, a different number of valid votes must be assigned to each candidate for an office and for and against each measure. A ballot used to test the automatic tabulating equipment must be clearly marked as a test ballot. After each test, the testing materials and the predetermined number of ballots used during the test must be sealed and retained in the same manner as election materials after an election.

Section 3. That chapter 12-17B be amended with a NEW SECTION:

After the conclusion of the testing of the automatic tabulating equipment, no software or firmware updates may be made to the automatic tabulating equipment until after the certification of the election results. Each automatic tabulating device must be sealed with a unique numbered seal. The person in charge of the election shall verify immediately prior to the official counting of the ballots that the seal has not been tampered with since the testing period and certification process pursuant to section 1 of this Act. The State Board of Elections shall promulgate rules, pursuant to chapter 1-26, prescribing the method of sealing automatic tabulating equipment pursuant to this section.

Section 4. That § 12-17B-16 be AMENDED:

12-17B-16. Automatic tabulating equipment ~~shall~~ must be tested prior to a recount or election contest as provided in § 12-17B-5 and sections 2 and 3 of this Act, and then the official ballots ~~shall~~ must be recounted. The recount board shall certify the new returns printed by the automatic tabulating equipment ~~shall be certified by the recount board~~ as the official returns for the election. ~~They~~The person in charge of the election shall ~~be signed and sealed by the person in charge of the election and made public~~ sign and seal the new returns printed by the automatic tabulating equipment and make the new returns public.

Signed March 21, 2023

Chapter 50

(Senate Bill 160)

An Act to establish post-election audits.

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

Section 1. That chapter 12-17B be amended with a NEW SECTION:

Within fifteen days following the completion of the state canvassing of a primary or general election, the auditor of each county shall conduct a post-election audit of the ballots cast in the election following the procedures listed in this Act. The county auditor shall appoint a county auditing board of sufficient size to promptly complete the audit.

The members of the county auditing board may not all be members of the same political party. A member of the county auditing board must be a registered voter in the county in which the audit takes place. An individual may not serve on the county auditing board if the individual is a candidate for the office that is on the ballot being audited.

The State Board of Elections shall promulgate rules, pursuant to chapter 1-26, prescribing the oath that each member of a county auditing board must take prior to discharging any duties.

Section 2. That chapter 12-17B be amended with a NEW SECTION:

The office of the secretary of state shall reimburse each county for the cost of any post-election audit required by this Act. The State Board of Elections shall promulgate rules, pursuant to chapter 1-26, administering the reimbursement process and defining reimbursable expenses and reimbursement rates for post-election audits.

Section 3. That chapter 12-17B be amended with a NEW SECTION:

The post-election audit must be conducted in five percent of the precincts in the county by manually counting all votes cast in two contests and comparing the results of the manual count to the results for those precincts at the county canvass. The county auditor shall select the precincts for the audit at random without the use of a computer in public during the meeting of the county canvassing board. If the combined total of all ballots cast in the precincts selected does not exceed one hundred ballots, then additional precincts must be randomly selected until the total of all ballots exceeds one hundred ballots. For the purposes

of this section, the term precinct includes vote centers, but does not include any precinct designated as an absentee precinct.

The county auditor shall select the contests for the audit at random without the use of a computer in public during the meeting of the county canvassing board. One contest randomly selected for the audit must be a statewide contest. If there are no statewide contests on the ballot, the auditor randomly shall select another contest on the ballot. If there is only one contest on the ballot, that contest must be audited.

Section 4. That chapter 12-17B be amended with a NEW SECTION:

A post-election audit conducted pursuant to this Act must be open to the public. Members of the public shall keep a reasonable distance so as to not interfere with the audit process. The county auditor shall post notice of the time and place of the audit in the same manner as a public meeting agenda pursuant to § 1-25-1.1 and provide the notice to the county chair of each political party that has a candidate on the ballot.

Section 5. That chapter 12-17B be amended with a NEW SECTION:

The county auditor shall send the results of the post-election audit to the secretary of state and present the results of the audit to the county commission at its next meeting. The results of the audit shall be included in the minutes of the county commission meeting.

The secretary of state shall publish the results of the post-election audit on the secretary of state's website.

Section 6. That chapter 12-17B be amended with a NEW SECTION:

If the results of the post-election audit show a discrepancy in the results greater than the margin by which any contest for elected office on the ballot in the county was decided, the auditor shall notify the candidates for that office. Any candidate who receives a notification from the county auditor shall have an additional seven days from the date from when the auditor sends the notification to file a verified petition requesting a recount of the official returns pursuant to §§ 12-21-10 or 12-21-11. The petition may be filed regardless of the margin by which the contest was decided.

Section 7. That chapter 12-17B be amended with a NEW SECTION:

If a recount of any contest is conducted in a county, the county auditor is not required to conduct a post-election audit pursuant to section 1 of this Act.

Section 8. That chapter 12-17B be amended with a NEW SECTION:

The county auditor shall reseal and retain the ballots upon the completion of a post-election audit pursuant to § 12-20-31.

Section 9. That § 12-1-9 be AMENDED:

12-1-9. The State Board of Elections shall promulgate rules, pursuant to chapter 1-26, concerning:

(1) Forms for voter registration and voter file maintenance;

(2) Forms and color of ballots;

(3) Forms for notices;

(4) The uniformity of election procedures;

(5) The operation of the State Board of Elections;

(6) The procedure to accept a petition and verify petition signatures;

(7) Petition forms, including petition size and petition font size;

(8) Envelopes for absentee voting;

(9) Instructions to voters and absentee voters; ~~and~~

(10) Recounts; and

(11) Post-election audits.

Signed March 21, 2023

Chapter 51

(House Bill 1165)

An Act to modify certain provisions pertaining to absentee voting.

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

Section 1. That § 12-19-2 be AMENDED:

12-19-2. ~~An absentee~~ A voter desiring to vote by mail may apply to the person in charge of the election for an absentee ballot. The application or request ~~shall~~ must be made in writing, signed by the applicant, and ~~shall~~ must contain the applicant's voter registration address. The application or request ~~shall~~ must contain an oath verifying the validity of the information in the application or request. The oath ~~shall~~ must be administered by a notary public or other officer authorized by this state to administer an oath or administered by an out-of-state notary public. If the application or request does not contain an oath, the application or request ~~shall~~ must be accompanied by a copy of the voter's identification card as required by § 12-18-6.1. The copy of the voter's identification card ~~shall~~ must be maintained by the person in charge of the election pursuant to § 12-20-31. ~~However, the~~ The voter's identification card is not available for public inspection. The application or request may be used to obtain an absentee ballot for all elections in that calendar year conducted by the jurisdiction receiving the application or request if so indicated. The ballot ~~shall~~ must be sent to the voter's residence, as shown in the voter registration file or any temporary residence address designated in writing by the voter, at the time of applying for the absentee ballot. If the application or request is from a voter identified as being covered by the Uniformed and Overseas Citizens Absentee Voting Act ~~(42 U.S.C. 1973ff-1) as of January 1, 2010~~, 52 U.S.C. § 20301 et seq., as of January 1, 2023, the voter may designate on the application for the ballot to be sent electronically pursuant to this section through the system provided by the Office of the Secretary of State. The person in charge of the election shall stamp the application with the date it was received. The person in charge of the election shall preserve a record of the name, mailing address, and voting precinct of each applicant and, except as provided by § 12-19-45, deliver a copy of the record to the superintendent of the election board of the home precinct of the applicant.

Section 2. That § 12-19-2.2 be AMENDED:

12-19-2.2. If a person is an authorized messenger for more than one voter, ~~he~~ the person must notify the person in charge of the election of all voters for whom ~~he~~ that person is a messenger. The person in charge of the election shall keep a record of the authorized messenger requesting an absentee ballot to be delivered to another voter.

Section 3. That § 12-19-2.3 be AMENDED:

12-19-2.3. Any voter identified as being covered by the Uniformed and Overseas Citizens Absentee Voting Act ~~(42 U.S.C. 1973ff-1) as of January 1, 2011~~, 52 U.S.C. § 20301 et seq., as of January 1, 2023, may submit an application or request for an absentee ballot by facsimile or emailed image to the person in charge of the election. The secretary of state may authorize a person in charge of an election to accept an application or request for an absentee ballot pursuant to this section through the system provided by the Office of the Secretary of State.

Section 4. That § 12-19-2.5 be AMENDED:

12-19-2.5. The State Board of Elections shall promulgate rules, pursuant to chapter 1-26, to prescribe the absentee application form and a combined absentee ballot application~~/~~ form and return envelope for absentee voting in the office of the person in charge of the election. The application may be made by letter or upon any form containing the required information or upon any form prescribed by the State Board of Elections or the postcard form referred to in § 12-4-8.1, executed by any person authorized in accordance with the Uniformed and Overseas Citizens Absentee Voting Act ~~(UOCAVA)(42 U.S.C. § 1973ff) as of January 1, 2006~~, 52 U.S.C. § 20301 et seq., as of January 1, 2023.

Section 5. That § 12-19-4 be AMENDED:

12-19-4. The return envelope for the ~~absent voter's~~ absentee ballot ~~shall~~ must have printed on the reverse thereof a statement to be signed by the voter. The State Board of Elections shall ~~prescribe~~ promulgate rules, pursuant to chapter 1-26, prescribing the forms for the return envelope, ballots, and instructions to the voter~~, and such certification to accommodate the federal service voter under the provisions of the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA)(42 U.S.C. § 1973cc-1)~~.

Section 6. That § 12-19-5 be AMENDED:

12-19-5. The envelope containing the enclosures, if not delivered to the voter personally by the person in charge of the election or the authorized messenger filing the voter's request for an absentee ballot, ~~shall~~ must, except for federal service voters, be mailed by first class mail to the address of the applicant stated in ~~his~~ the application, with postage prepaid thereon.

~~Both the~~ The return envelope and the envelope for transmitting the enclosures to federal service voters ~~shall~~ must meet the requirements of the Uniformed and Overseas Citizens Absentee Voting Act ~~(UOCAVA)(42 U.S.C. § 1973)~~, 52 U.S.C. § 20301 et seq., as of January 1, 2023, and ~~shall~~ must be transmitted by air mail, free of United States postage, including air mail.

No public official may mail an absentee ballot to a voter after the Monday prior to election day.

Section 7. That § 12-19-7 be AMENDED:

12-19-7. A voter voting an absentee ballot shall mark it and fold it without

revealing the marks to any other person. The voter shall place the voted ballots in the return envelope provided and seal the envelope. The voter shall sign the statement on the return envelope. The voter shall ~~either mail~~ return the ballot to the office of the person in charge of the election by:

(1) Mailing the ballot~~, deliver it~~;

(2) Delivering the ballot in person ~~or have it delivered to the person in charge of the election~~; or

(3) Providing the ballot to an absentee ballot messenger to deliver the ballot in person as prescribed by this chapter.

Section 8. That § 12-19-7.1 be AMENDED:

12-19-7.1. No person who is a candidate for any elective office, except for political party offices described in § 12-5-2 or county auditor or such deputy, at the election for which the ballot or ballots are to be voted, may serve as an authorized messenger. A violation of this section is a Class 2 misdemeanor.

Section 9. That § 12-19-9 be AMENDED:

12-19-9. An authorized messenger shall deliver the absentee ballot to the office of the person in charge of the election unless there is not sufficient time for the person in charge of the election to transmit the absentee ballot to the voter's home precinct or a vote center as prescribed by § 12-14-17. In that instance, the authorized messenger shall personally deliver the absentee ballot to the precinct superintendent of the voter's home precinct. If the authorized messenger requests a receipt when returning the absentee ballot, the person in charge of the election shall provide the authorized messenger a receipt.

Section 10. That § 12-19-9.1 be AMENDED:

12-19-9.1. If there is any nursing facility, assisted living center, or hospital, as defined in § 34-12-1.1, within any county from which there might reasonably be expected to be five or more absentee applications, the county auditor shall notify the person in charge of that facility and the chair of the county central committee of each party and any other person who has filed a request to be notified of the date and time at which representatives of the auditor's office will be present to assist the residents of that facility to vote, utilizing the absentee procedure. Any political party, independent candidate, and nonpolitical candidate may assign a person to accompany the county auditor's representatives. At the date and time announced, the county auditor's representative shall deliver ballots to and assist all persons at that facility who desire ~~such~~ assistance ~~and who have applied for absentee ballots~~ to vote. This section applies only to ~~a general~~ a primary or general election.

If a person in charge of an election conducts absentee voting at a nursing facility, assisted living center, or hospital, as defined in § 34-12-1.1, the voter shall complete a combined absentee ballot application~~/~~ form and return envelope, and the identification and affidavit requirements provided in § 12-19-2.1 are waived. The State Board of Elections shall promulgate rules, pursuant to chapter 1-26, prescribing the procedures by which the county auditor will conduct absentee voting, collect completed ballots, and secure completed ballots at a nursing facility, assisted living center, or hospital, as defined in § 34-12-1.1.

Section 11. That § 12-19-9.2 be AMENDED:

12-19-9.2. ~~Whenever~~If, prior to the casting of absentee ballots, it is made to appear by due proof to the county auditor or election board that any voter who

has marked and forwarded an absentee ballot ~~has died~~ is no longer eligible to vote due to death, felony conviction, or mental incompetence prior to the opening of the polls on the date of the election, the ballot of the voter ~~shall~~ must be returned in the ~~unsealed~~ sealed return envelope with the evidence of ~~death~~ the disqualifying factor listed in this section attached and the envelope marked accordingly with one of the following statements:

(1) "Unopened by reason of death of voter";

(2) Unopened by reason of felony conviction of voter; or

(3) Unopened by reason of mental incompetence of voter.

The marked envelope must be returned to the officer in charge of the conduct of the election. A returned absentee ballot deemed ineligible may not be opened or counted. The casting of any such ballot shall not invalidate the election.

Section 12. That § 12-19-10 be AMENDED:

12-19-10. Upon receipt of the sealed return envelope containing the voted ballots, the person in charge of the election or their designee shall mark the date of receipt on the envelope. The person in charge of the election shall keep ~~it~~ the absentee ballot in a safe place without opening the envelope or breaking the seal thereof and shall, except as provided by § 12-19-42, deliver it to the precinct superintendent of election of the voter's home precinct. The person in charge of the election shall have the absentee ballots delivered with the election supplies, or if received later, then prior to the close of the polls. If the election board is not otherwise engaged in official duties, or if there are absentee ballots not processed when the polls close, immediately thereafter, the board ~~shall~~ must carefully compare the statement on the reverse side of the official return envelope with the written application received from the officer in charge of the election without opening or breaking the seal of the return envelope. If the ballot is contained in a combined absentee ballot application/return envelope, the comparison of the statement and the application ~~shall~~ must be omitted. The board shall enter the voter's name on the election pollbook and mark the registration list if:

(1) The ~~ballots~~ ballot received ~~were~~ was voted by the voter whose name appears on the statement;

(2) The voter is registered in ~~such~~ the precinct and has not previously voted in that precinct at the election; and

(3) The written application and statement were both signed by the voter.

The board shall then open the envelope without opening, unfolding or examining the ballots the envelope may contain, stamp the ballots with the official stamp, and deposit the ballots with the other ballots cast at the election. If the board determines that an absentee ballot envelope cannot be opened because the envelope does not meet the requirements for opening, the reason ~~shall~~ must be written on the envelope, signed by a member of the board, and the envelope placed in a larger envelope for unopened absentee ballots.

~~No person may,~~ It is a Class 2 misdemeanor for a person, prior to the counting of the votes, to open, unfold, or examine any ballot, or make any communication to any person concerning the markings or contents of the ballot~~.~~, or to create any record associating an individual voter with a ballot ~~A violation of the preceding sentence is a Class 2 misdemeanor~~.

Section 13. That § 12-19-10.1 be AMENDED:

12-19-10.1. If a county uses an absentee ballot precinct at the building

where the county auditor is located to process absentee ballots on election day for a federal, state, or county election, the county has the option to validate the absentee ballot signatures in the county auditor's office. The county auditor shall follow the provisions of § 12-19-10 except for the following:

(1) The county auditor, at anytime during the absentee voting timeframe, shall carefully compare the statement on the reverse side of the official return envelope with the written application without opening or breaking the seal of the return envelope; and

(2) If the county auditor determines that both signatures match:

(a) The application for absentee ballot does not need to be sent to the absentee precinct board; and

(b) The county auditor shall initial the envelope after the determination that signatures do match.

A violation of this section is a Class 2 misdemeanor.

Section 14. That § 12-19-12 be AMENDED:

12-19-12. If an absentee ballot is delivered to a polling place, absentee counting board, or the office of the person in charge of the election after the polls are closed in the county or local jurisdiction, the absentee ballot may not be counted or opened.

Section 15. That § 12-19-14 be AMENDED:

12-19-14. Any voter who, having procured an official ballot ~~or ballots~~ or a Uniformed and Overseas Citizens Absentee Voting Act ~~(UOCAVA)~~ ballot link as provided in §§ 12-19-1 to 12-19-12, inclusive, intentionally disposes of a ballot in any manner other than as provided in ~~such~~ those sections or provides the ~~UOCAVA~~ ballot link to any other person is guilty of a Class 2 misdemeanor. The ~~UOCAVA~~ Uniformed and Overseas Citizens Absentee Voting Act ballot link is the internet URL for accessing an electronically provided absentee ballot.

Section 16. That § 12-19-44 be AMENDED:

12-19-44. ~~The room occupied by the absentee ballot counting board shall be open to any person for the purpose of observing the counting process~~The process of sorting, validating, and counting absentee ballots must be open to poll watchers for the purpose of observing the process. Poll watcher shall keep a reasonable distance from ballots and identification information to protect the privacy of absentee voters. No record associating an individual voter with a ballot may be created. A violation of this section is a Class 2 misdemeanor.

Section 17. That § 12-19-49 be REPEALED:

~~If, prior to the casting of absentee ballots, the person in charge of the election or absentee ballot counting board shall have sufficient cause to believe that any voter who has marked and forwarded an absentee ballot has died prior to the opening of the polls on the date of the election, the ballot of the voter shall be returned in the sealed return envelope with the evidence of death attached and the envelope marked "Unopened by reason of death of voter" to the person in charge of the election. The casting of any such ballot, however, shall not invalidate the election.~~

Section 18. That § 12-19-54 be AMENDED:

12-19-54. No person may employ, reward, or compensate any person to assist voters based on the number of voters assisted. Nothing in this section prohibits any person from hiring a person paid on an hourly or salaried basis to assist voters. Any violation of this section is a Class ~~2~~ 1 misdemeanor.

Section 19. That § 12-19-55 be AMENDED:

12-19-55. No person may receive any wages, reward, or compensation for assisting voters based on the number of voters assisted. Nothing in this section prohibits any person from being employed on an hourly or salaried basis to assist voters. Any violation of this section is a Class ~~2~~ 1 misdemeanor.

Section 20. That chapter 12-19 be amended with a NEW SECTION:

No person may distribute an absentee ballot application to a voter that is prefilled with the voter's name and registration address. This provision does not apply to a person who is authorized to request an absentee ballot for a voter or a person assisting a voter who requires assistance for reason of an inability to read or write, blindness, or other physical disability.

The person in charge of the election or their appointed designee may prefill an absentee ballot application for a voter who requests an application.

Section 21. That chapter 12-19 be amended with a NEW SECTION:

The person in charge of the election may not establish or place, or allow any individual to establish or place, an absentee ballot drop box within the official's jurisdiction. A completed absentee ballot may only be returned to an office of the individual in charge of the election pursuant to § 12-19-7.

For the purposes of this section, the term, absentee ballot drop box, means a receptacle or container into which an individual may deposit a completed absentee ballot. This term excludes a county auditor's means for physically securing a completed absentee ballot as required by § 12-19-10 or 12-19-42, including a secured and monitored receptacle or container at the office of the individual in charge of the election. The State Board of Elections shall promulgate rules, pursuant to chapter 1-26, prescribing the requirements to ensure the security of the receptacle or container located at the office of the individual in charge of the election.

A violation of this section is a Class 2 misdemeanor.

Section 22. That § 12-19-48 be REPEALED:

~~If an absentee ballot is delivered to an absentee ballot counting board after the polls are closed the absentee ballot may not be counted or opened.~~

Signed March 21, 2023

_____

Chapter 52
(House Bill 1114)

An Act to revise the qualifications to be a member of a county recount board.

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

Section 1. That § 12-21-2 be AMENDED:

12-21-2. The county recount board of each county which conducts a recount authorized by this chapter shall ~~consist of a recount referee and two voters of the county to~~ be appointed by the presiding judge of the circuit court for that county~~, and shall provide for representation of the two political parties with the largest party registration in that county. The recount referee shall be a duly qualified member of the bar of the State of South Dakota and a member of the political party which polled the largest number of votes for Governor in the county in the last gubernatorial election. Prior to serving, each member of the recount board shall take an oath that the member will act in good faith and with impartiality. The state board of elections shall prescribe the oath to be taken~~.

At a general election, a judicial primary election, or an election for a referred or submitted question, the recount board shall consist of a recount referee who is a duly qualified member of the State Bar of South Dakota and a member of the political party that received the greatest number of votes in the county in the race for Governor in the last gubernatorial election, and two voters of the county representing the two political parties with the largest registration in the county.

In a non-judicial primary election or runoff election pursuant to § 12-6-51.1, the recount board must consist of members of the same political party as the candidates in the contest being recounted. The recount board must consist of a recount referee who is a duly qualified member of the state bar and two voters of the county.

An individual may not serve on the recount board if the individual is a candidate for the office that is the subject of the recount, or is the husband, wife, father, mother, father-in-law, mother-in-law, son, daughter, son-in-law, daughter-in-law, brother, or sister, whether by birth or marriage, of the whole or the half-blood, of any candidate involved in the recount.

Prior to serving, each member of the recount board shall take an oath that the member will act in good faith, with impartiality, and that the member meets the qualifications to serve as a member of the county recount board. The State Board of Elections shall promulgate rules, pursuant to chapter 1-26, that prescribe the oath to be taken under this section.

Signed March 8, 2023

Chapter 53
(House Bill 1062)

An Act to clarify the convening of recount boards for primary elections.

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

Section 1. That § 12-21-20 be AMENDED:

12-21-20. The county auditor, immediately on the due filing of any petition for a recount or upon receipt from the secretary of state of notice of ~~such~~ the filing with the secretary of state, shall notify in writing, with the seal of the auditor's office, the presiding judge of the circuit court for the auditor's county. The presiding judge shall appoint a board, pursuant to § 12-21-2, for each county in the circuit in which a recount is to be conducted. The presiding judge may appoint the board anytime within thirty days prior to a primary or general election or upon the filing of the petition for recount. ~~The~~ Except as provided in § 12-21-11, the board shall ~~then~~ convene in the office of the county auditor on ~~the second Monday at nine a.m. following the filing of the petition. However, if the second Monday is a legal holiday, the board shall convene at nine a.m. of the day following.~~:

(1) The second Monday following the filing of the petition at nine a.m.;

(2) The second Tuesday following the filing of the petition at nine a.m., if the second Monday is a legal holiday; or

(3) A date selected by the presiding judge when necessary to avoid undue conflict with the electoral process and ensure the timely facilitation of a recount. The date selected by the presiding judge must provide the opportunity for recount witnesses as required by § 12-21-26.

The county auditor shall provide the recount board with laws, rules, and forms to use in conducting the recount. The board shall then proceed with the recount.

Signed February 9, 2023

Chapter 54

(Senate Bill 207)

An Act to provide a penalty for the expenditure of public funds to influence the outcome of an election.

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

Section 1. That § 12-27-20 be AMENDED:

12-27-20. The state, an agency of the state, and the governing body of any county, municipality, or other political subdivision of the state may not expend or permit the expenditure of public funds for the purpose of influencing the nomination or election of any candidate, or for the petitioning of a ballot question on the ballot or the adoption or defeat of any ballot question. This section may not be construed to limit the freedom of speech of any officer or employee of the state or any political subdivision who is speaking in the officer's or employee's personal capacity. This section does not prohibit the state, its agencies, or the governing body of any political subdivision of the state from presenting factual information solely for the purpose of educating the voters on a ballot question.

It is a Class 1 misdemeanor if the state, an agency of the state, or the governing body of any county, municipality, or other political subdivision expends

one thousand or more in public funds in violation of this section. It is a Class 6 felony if ten thousand or more in public funds is expended in violation of this section.

Signed March 21, 2023

EDUCATION

Chapter 55
(House Bill 1123)

An Act to authorize school boards to modify the length of terms for members to allow for holding joint elections.

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

Section 1. That § 13-8-2 be AMENDED:

13-8-2. ~~There shall be a~~ A school board ~~consisting~~ consists of five, seven, or nine members whose terms ~~shall be~~ are from one to three years initially, and three years thereafter; provided that each school board member ~~shall be~~ is entitled to complete the term of office to which ~~he~~ the member was elected. A school board may, by resolution, increase the length of terms from three to four years or decrease the length of terms from three to two years for the purpose of holding joint elections pursuant to § 13-7-10.3. Terms may not be increased or decreased unless the school board conducts a public hearing thereon, after having given notice of the hearing by publication at least twice in its official newspaper at least ten days before the hearing. At the hearing, the board may approve the resolution or may refer the matter to the voters of the district.

Section 2. That § 13-8-4 be AMENDED:

13-8-4. If at an election held pursuant to § 13-8-3 an increase in the number of board members is authorized, the school board ~~is empowered to~~ must designate the number of vacancies and the number of years, not to exceed three years, or four years if authorized pursuant to § 13-8-2, in each vacancy, so that all succeeding ~~annual~~ regular elections ~~will~~ have, insofar as practicable, the same number of vacancies to be filled.

The procedure for decreasing the number of board members ~~shall be~~ is the same as for increasing the number of board members, and the board ~~is similarly empowered to~~ shall designate the vacancies and terms not to exceed three years, or four years if authorized pursuant to § 13-8-2; provided, that each school board member ~~shall be~~ is entitled to complete the term of office to which ~~he~~ the member was elected.

Section 3. That chapter 13-7 be amended with a NEW SECTION:

A school board resolution to increase school board terms to four years or to decrease school board terms to two years, pursuant to § 13-8-2, is subject to a referendum if five percent of the registered voters of the school district, based upon the total number of registered voters in the school district at the last

preceding general election, petition, within twenty days after the resolution is enacted, to have the question of approval or disapproval of the resolution to increase or decrease term limits placed upon the ballot at the next scheduled election or at a special election called for that purpose. The business manager shall give notice that the question will be on the ballot at the next scheduled election or at a special election called for that purpose as provided by law for school elections and prepare official ballots according to the provisions of this title.

Section 4. That chapter 13-7 be amended with a NEW SECTION:

If a resolution to increase a school board term to four years is approved, pursuant to § 13-8-2, the school board must designate the number of vacancies and the number of years, not exceeding four years, for each vacancy so that all succeeding elections have, insofar as practicable, the same number of vacancies to be filled.

If a resolution to decrease the length of a school board term from three to two years is approved pursuant to § 13-8-2, each member of the school board must be elected at the regularly scheduled election.

Section 5. That chapter 13-7 be amended with a NEW SECTION:

If a school board has, by resolution, increased the length of terms from three to four years or decreased the length of terms from three to two years for the purpose of holding joint elections pursuant to § 13-7-10.3, the school board may decrease the length of terms from four years to three or increase the length of terms from two to three years using the same procedure as used when altering the length of terms for the purpose of holding joint elections pursuant to § 13-7-10.3, provided that each school board member is entitled to complete the term of office to which the member was elected. The school board is empowered to designate the number of vacancies and the number of the years, not to exceed three years, in each vacancy so that all succeeding regular elections have, insofar as practicable, the same number of vacancies to be filled.

Section 6. That § 13-6-62 be AMENDED:

13-6-62. If under the provisions of this chapter a new school district entity is created, the voters shall elect a new school board to govern ~~such~~ the school district as hereinafter provided. The county auditor of the county having jurisdiction shall conduct the election under the existing statutory provisions for conducting ~~annual~~ regular elections in school districts. The county auditor shall perform the duties specified for the business manager as provided in chapter 13-7, as amended and shall also give the notice of the number of school board vacancies and residency requirements for school board membership as may be set forth in the plan approved by the voters. The declaration of candidacy shall be filed in the office of the county auditor, and the date of election may be fixed on or before the first Monday in May. Costs of conducting the election shall be paid by the new school district.

Section 7. That § 13-6-84.3 be AMENDED:

13-6-84.3. Within thirty days of the last date of the public hearing, pursuant to § 13-6-84.2, five percent of the voters residing within a school district may petition the school board to refer the resolutions to an election. The school district shall submit the question at the next ~~annual~~ regular election provided in § 13-7-10. The question shall be deemed to have passed or failed by a simple majority of those voting. Upon passage, the school boards shall submit the resolution to the county commissioners for implementation pursuant to § 13-6-87.

Section 8. That § 13-7-10 be AMENDED:

13-7-10. The ~~annual~~ regular election for school districts shall be held between the second Tuesday in April and the third Tuesday in June between the hours of seven a.m. and seven p.m. of the day of the election. The school board shall select the date of the election by resolution no later than the first regular meeting after January first of each year. Voter registration, absentee voting, and procedures used in counting ballots shall be in accordance with Title 12 except as specifically provided in chapter 13-7.

Section 9. That § 13-7-30 be AMENDED:

13-7-30. For the most recent ~~annual~~ regular school election conducted in each school district as provided in § 13-7-10, each school board shall provide in the school board minutes the following information:

(1) The number of registered voters of the school district on the date voter registration closes;

(2) The number of registered voters of the school district who voted in the election;

(3) The percentage of registered voters of the school district who voted in the election; and

(4) If the election was held in conjunction with a regular municipal election as provided in § 13-7-10.1 or with the regular June primary as provided in § 13-7-10.3.

If the ~~annual~~ regular election was not conducted because there was neither a contested vacancy on the school board nor any question submitted to the voters, the school board shall provide that information in the school board minutes.

Section 10. That § 13-8-3 be AMENDED:

13-8-3. The voters of any school district may increase the number of board members to seven or to nine, or establish or discontinue school board representation areas, by a majority vote of all voters voting at an election called and held as hereinafter provided. If a petition signed by ten percent of the registered voters of any school district, based upon the total number of registered voters at the last preceding general election, is presented to the board requesting that an election be called for the purpose of voting upon the question of the change of number of board members, or the establishment or discontinuation of school board representation areas, the board shall call an election. The school board may, by resolution, call for an election for the purpose of voting upon the question of the change of number of board members, or the establishment or discontinuation of school board representation areas. The question shall be submitted to the voters at an election to be held not less than forty-five nor more than sixty days from the date of the filing of ~~such~~ the petition with the business manager. If ~~such~~ a petition is filed less than one hundred twenty days prior to the next ~~annual~~ regular election, the question ~~shall~~ must be submitted at the ~~annual~~ regular election. ~~Such~~ The election ~~shall~~ must be held upon the same notice and conducted in the same manner as provided by chapter 13-7. Any increase or decrease in the number of board members ~~shall~~ must be implemented at the next succeeding ~~annual~~ regular election.

Signed March 21, 2023

Chapter 56

(House Bill 1191)

An Act to clarify the duties of truancy officers.

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

Section 1. That § 13-27-20 be AMENDED:

13-27-20. Each truancy officer shall make and file truancy complaints~~, and any~~ for children who are enrolled in the school district. Any teacher, school officer, or ~~any~~ citizen may make and file a truancy complaint, before a circuit court judge, against any person having control of a child of compulsory school age who is not being provided with alternative instruction or attending school or whose attendance at school is irregular. The complaint ~~shall~~ must state the name of the parent, guardian, or person responsible for the control of the child. The complaint ~~shall~~ must be verified by oath upon belief of the complainant. A truancy complaint that, together with any accompanying affidavit, does not establish probable cause ~~shall~~ must be dismissed upon motion of the defendant to the circuit court judge.

Signed March 8, 2023

Chapter 57

(Senate Bill 182)

An Act to establish a uniform method for calculating high school credit received from completing postsecondary courses.

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

Section 1. That § 13-28-37 be AMENDED:

13-28-37. Any student in grades nine, ten, eleven, or twelve may apply to an institution of higher education or a technical college as a special student in a course or courses offered at the institution of higher education or technical college. The institution of higher education or technical college shall set admission standards and tuition rates. The student shall obtain the school district's approval of the postsecondary course ~~or courses~~ prior to enrolling. If~~, however,~~ the student is enrolled in a nonpublic school or a tribal school, the student ~~shall~~ must obtain approval of the postsecondary course ~~or courses~~ from the nonpublic school or the tribal school prior to enrolling, and if the student is receiving alternative instruction pursuant to § 13-27-3, the student ~~shall~~ must obtain approval of the postsecondary course ~~or courses~~ prior to enrolling from the provider of the alternative instruction. If approved, the student shall receive full credit toward high school graduation as well as postsecondary credit for each postsecondary course. The school district shall record each course under this section on the student's transcript and shall use each course score to calculate academic standing. The Board of Education Standards shall establish, through rules promulgated pursuant to chapter 1-26, a uniform method for school districts to calculate the amount of high school credit that a student receives for completing a postsecondary course.

If a failing final course grade is received in a postsecondary course under this section, the student receiving the failure is no longer eligible to enroll for postsecondary courses under this section absent a showing of good cause.

Signed March 8, 2023

Chapter 58

(Senate Bill 168)

An Act to authorize a board of a school district to adopt policies regarding students who are registered sex offenders, and to declare an emergency.

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

Section 1. That chapter 13-28 be amended with a NEW SECTION:

A board of a school district may adopt a policy that requires a student who is registered as a sex offender, pursuant to § 22-24B-2, to receive instruction through remote or distance learning or an alternative educational program.

Section 2. Whereas, this Act is necessary for the support of the state government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

Signed March 20, 2023

Chapter 59

(House Bill 1056)

An Act to modify the limit of consecutive terms for members of the Board of Technical Education.

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

Section 1. That § 13-39A-4 be AMENDED:

13-39A-4. Each member shall serve a three-year term that expires on the last day of October. No member may serve more than ~~two~~ three consecutive terms. ~~The initial board members shall be appointed for one, two, and three year staggered terms so the terms of no more than three board members expire in any year.~~

Signed March 8, 2023

Chapter 60

(Senate Bill 118)

An Act to expand eligibility for certain teachers who receive reduced tuition at Board of Regents institutions.

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

Section 1. That § 13-55-24 be AMENDED:

13-55-24. ~~Any elementary or secondary~~ A teacher or vocational instructor who is required to take college courses as a condition of employment, or to maintain a certificate to teach, may, upon compliance with § 13-55-27 and all of the requirements for admission, attend and pursue any undergraduate or graduate course in any ~~state educational~~ institution under the control and management of the Board of Regents upon the payment of fifty percent of tuition and one hundred percent of required fees. If the teacher enrolls in a distance education course under the control and management of the Board of Regents or other course under the control and management of the Board of Regents that is not subsidized by the general fund, the teacher is entitled to a benefit of fifty percent of the tuition to be paid to the institution by the Board of Regents based on the in-state resident tuition rate. The Board of Regents shall maintain an annual record of the number of participants and the tuition dollar value of such participation.

Section 2. That § 13-55-25 be AMENDED:

13-55-25. ~~Any elementary or secondary~~ A teacher or vocational instructor is eligible for the reduced tuition amount provided for in § 13-55-26 for a maximum of six credit hours per year.

Section 3. That § 13-55-26 be AMENDED:

13-55-26. The right of any ~~elementary or secondary~~ teacher or vocational instructor to participate in the reduced tuition program is limited to the space available, as determined by the course instructor, in any course, after all of the full-time or full tuition paying students have registered.

Section 4. That § 13-55-27 be AMENDED:

13-55-27. To be eligible for the reduced tuition benefit, ~~any elementary or secondary~~ a teacher or vocational instructor ~~shall~~ must:

(1) Be a bona fide resident of the state and employed as a teacher by ~~an accredited~~ a:

(a) School district;

(b) Accredited school ~~as a teacher as that term is defined in this title~~; or

(c) Head start program;

(2) Maintain an average academic grade of 3.0 or better;

(3) Be required by state law, administrative rules, or an employment contract to attend college as a condition of employment or to maintain a certificate to teach; and

(4) Present certification to the Board of Regents from the ~~school district by which the teacher is employed~~ teacher's employer that the teacher meets the requirements of this section.

Section 5. That § 13-55-28 be AMENDED:

13-55-28. No benefits may accrue under §§ 13-55-24 to 13-55-27, inclusive, if ~~an elementary or secondary~~ a teacher or vocational instructor is entitled to other reduced tuition benefits by law.

Signed March 23, 2023

Chapter 61

(House Bill 1055)

An Act to increase the dollar amount of South Dakota opportunity scholarships.

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

Section 1. That § 13-55-33 be AMENDED:

13-55-33. ~~One-half~~ At the beginning of the fall semester, one-half of the annual opportunity scholarship ~~award shall~~ must be paid to public institutions, on behalf of eligible students, ~~there enrolled~~ or provided directly to eligible students enrolled at nonpublic institutions ~~at the beginning of the fall semester and the~~. The other half ~~shall~~ of the scholarship must be paid at the beginning of the spring semester.

The amount of the annual ~~award shall be as follows:~~

~~(1) One thousand dollars for the first year of attendance;~~

~~(2) One thousand dollars for the second year of attendance;~~

~~(3) One thousand dollars for the third year of attendance;~~

~~(4) Two thousand dollars for the fourth year of attendance unless the student attended full-time a regionally accredited university, college, or technical school located outside South Dakota prior to admission to the program, in which case the award shall be one thousand dollars.~~

~~For students first receiving a scholarship award after July 1, 2015, the amount of the annual award shall be as follows~~ scholarship is:

(1) For students first receiving a scholarship on or before June 30, 2023:

(a) One thousand three hundred dollars for the first year of attendance;

~~(2)~~ (b) One thousand three hundred dollars for the second year of attendance;

~~(3)~~ (c) One thousand three hundred dollars for the third year of attendance; and

~~(4)~~ (d) Two thousand six hundred dollars for the fourth year of attendance ~~unless~~, except if the student ~~attended~~ was in full-time attendance at a regionally accredited university, college, or technical

school, located outside ~~South Dakota~~ this state, prior to admission to the program, ~~in which case the award shall be~~ the scholarship is one thousand three hundred dollars; and

(2) For students first receiving a scholarship on or after July 1, 2023:

(a) One thousand five hundred dollars for the first year of attendance;

(b) One thousand five hundred dollars for the second year of attendance;

(c) One thousand five hundred dollars for the third year of attendance; and

(d) Three thousand dollars for the fourth year of attendance, except if the student was in full-time attendance at a regionally accredited university, college, or technical school, located outside this state, prior to admission to the program, the scholarship is one thousand five hundred dollars.

If a scholarship recipient completes an undergraduate degree within three full years of attendance and subsequently enrolls in a graduate program and attains full-time graduate status, as determined by the graduate program, at an eligible institution, as ~~defined~~ described in ~~subdivision~~ § 13-55-31~~(4) in a graduate program and attains full-time graduate status as determined by the graduate program~~, the recipient is entitled to the remainder of the ~~award~~ scholarship the recipient would have received if the recipient had completed an undergraduate degree following four full years of attendance.

If, in any year, the total ~~funds~~ moneys available to finance the~~ scholarship awards~~ scholarships are insufficient to permit each eligible recipient to receive the full amount provided in this section, the available moneys ~~shall~~ must be prorated and distributed to each recipient in proportion to the entitlement ~~contemplated by~~ set forth in this section.

The total amount ~~of the scholarship~~ payable to a student under this section may not exceed ~~six~~ seven thousand five hundred dollars.

Signed March 23, 2023

Chapter 62

(Senate Bill 37)

An Act to revise provisions pertaining to the South Dakota School for the Deaf.

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

Section 1. That § 3-18-1 be AMENDED:

3-18-1. The term, public employee, as used in this chapter means any person holding a position by appointment or employment in the government of the State of South Dakota or in the government of any one or more of the political subdivisions thereof, or in the service of the public schools, or in the service of any

authority, commission, or board, or any other branch of the public service. The term does not include:

(1) Elected officials and persons appointed to fill vacancies in elective offices and members of any board or commission;

(2) Administrators except elementary and secondary school administrators, administrative officers, directors, or chief executive officers of a public employer or major divisions thereof as well as chief deputies, first assistants, and any other public employees having authority in the interest of the public employer to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other public employees, or the responsibility to direct them, or to adjust their grievances, or to effectively recommend any action, if in connection with the foregoing, and the exercise of the authority is not of a merely routine or clerical nature, but requires the use of independent judgment;

(3) Students working as part-time employees twenty hours per week or less;

(4) Temporary public employees employed for a period of four months or less;

(5) Commissioned and enlisted personnel of the South Dakota National Guard;

(6) Judges and employees of the unified court system;

(7) Legislators and the full-time and part-time employees of the legislature or any state agency that statutorily is directed by the legislative branch; or

(8) Any person employed by the Board of Regents or employed by an institution under the ~~authority~~ control of the Board of Regents, except a person employed at ~~the~~ South Dakota ~~School~~ Services for the Deaf or the South Dakota School for the Blind and the Visually Impaired, who is not otherwise excluded by subdivision (2), (3), or (4).

This section does not preclude employees described in subdivisions (1) to (8), inclusive, from joining professional, noncollective bargaining organizations.

Section 2. That § 5-10-1.2 be AMENDED:

5-10-1.2. The commissioner of school and public lands shall deposit revenue collected for state endowed institutions under the control of the Board of Regents, pursuant to § 5-10-1 and chapters 10-4 and 10-6, in the Board of Regents endowed institution interest and income fund, created by § 5-10-1.1, and credit the appropriate institutional account within the fund. On a periodic basis, the commissioner shall allocate the money to the appropriate institutions.

The total allocation for an institution for a fiscal year ~~shall be~~ is the lesser of that institution's revenue for the fiscal year plus the beginning cash balance of the institution's account or:

$ 236,041 for the University of South Dakota;

$ 548,451 for South Dakota State University;

$ 133,022 for South Dakota School of Mines and Technology;

$ 183,393 for Northern State University;

$ 173,360 for Dakota State University;

$ 173,360 for Black Hills State University;

$ 97,959 for ~~the School~~ South Dakota Services for the Deaf;

$ 94,712 for the School for the Blind and the Visually Impaired; and

$ 77,745 for the agricultural experiment station.

Revenue in excess of the allocation shall be credited to the corresponding institutional account. If the cash balance of any institutional account exceeds fifty percent of the maximum allocation for that institution at the end of the fiscal year, the commissioner shall allocate the portion over fifty percent to the institution in the next fiscal year in addition to the normal allocation.

Section 3. That § 13-33B-3 be AMENDED:

13-33B-3. In considering placement and the least restrictive environment for a deaf ~~and~~ or hard-of-hearing ~~child~~student, the individualized education program team shall consider the unique communications needs of the ~~child as discussed~~student, in accordance with § 13-33B-2. In making that determination, the individualized education program team shall consider ~~particularly those~~ program options that provide the ~~pupil~~ student with an appropriate and equal opportunity for communication access, including ~~the state school for the deaf which may be the least restrictive environment for a deaf or hard-of-hearing child~~ those available through South Dakota Services for the Deaf.

Section 4. That § 13-33B-9 be AMENDED:

13-33B-9. The ~~superintendent of the State School~~administrator of South Dakota Services for the Deaf shall establish an advisory committee ~~for purposes of soliciting~~to solicit input from experts on the selection of language developmental milestones for children who are deaf or hard-of-hearing that are equivalent to ~~experts~~ milestones for children who are not deaf or hard-of-hearing, for inclusion in the parent resource pursuant to §§ 13-33B-5 and 13-33B-7.

The advisory committee may also make recommendations on the selection and administration of the educator tools or assessments ~~selected pursuant to~~referenced in § 13-33B-6.

The advisory committee shall consist of at least nine but no more than fifteen volunteers, at least four of whom ~~shall be~~are deaf or hard-of-hearing, and all of whom ~~shall~~ practice within the fields of education or services for the deaf ~~and~~ or hard-of-hearing. The advisory committee ~~shall~~ must include:

(1) A parent of a child who is deaf or hard-of-hearing, who uses both ASL and English;

(2) A parent of a child who is deaf or hard-of-hearing, who uses only spoken English, with or without visual supplements;

(3) A parent of a child who is Deaf-Plus;

(4) A representative from ~~the State School~~South Dakota Services for the Deaf~~outreach~~, who is fluent in both ASL and English;

(5) A representative from the Department of Education; and

(6) At least four members ~~which~~ who may be any of the following:

(a) An expert who researches language outcomes for deaf ~~and~~ or hard-of-hearing children, using ASL and English;

(b) A credentialed teacher of deaf ~~and~~ or hard-of-hearing students, with expertise in curriculum and instruction in ASL and English;

(c) A credentialed teacher of deaf ~~and~~ or hard-of-hearing students, with expertise in curriculum and instruction in spoken English, with or without visual supplements;

(d) An advocate from ~~a South Dakota~~an association in this state that represents the deaf ~~who~~ and advocates for teaching, using both ASL and English;

(e) An early intervention specialist who works with deaf ~~and~~ or hard-of-hearing infants and toddlers, using both ASL and English;

(f) A credentialed teacher of deaf ~~and~~ or hard-of-hearing students, with expertise in ASL and English language assessments;

(g) A representative from a parent training information center in ~~South Dakota~~this state;

(h) A representative from an organization that provides communication services for the deaf;

(i) A psychologist ~~with~~ who has expertise in assessing deaf ~~and~~ or hard-of-hearing children ~~who~~ and is fluent in ASL and English;

(j) A speech language pathologist; or

(k) A pediatric audiologist.

The ~~advisory~~ committee may ~~also~~ advise the department on the content and administration of ~~the~~ instruments used to assess the language development and literacy development of deaf ~~and~~ or hard-of-hearing ~~children's language and literacy development~~children, to ensure the appropriate use of the instruments with deaf or hard-of-hearing children.

The committee may make recommendations regarding future research to improve the measurement of progress of deaf ~~and~~ or hard-of-hearing children, in language and literacy.

Section 5. That § 13-49-14.12 be AMENDED:

13-49-14.12. The Board of Regents may deposit any moneys held by it pursuant to § 13-49-14.2, but not needed to cover liabilities ~~heretofore incurred~~, into a special fund ~~hereby~~ created in the South Dakota school and public lands endowment, ~~to be~~ known as the South Dakota ~~School~~ Services for the Deaf and the South Dakota School for the Blind and Visually ~~Handicapped maintenance and repair~~ Impaired support fund.

All moneys so deposited ~~shall become~~ are part of the school and public lands endowment, whose principal ~~shall~~ must be held inviolate, and ~~their~~ the earnings ~~shall~~ must be made available to the ~~Board of Regents to address the cost of~~ board to:

(1) Support routine maintenance and repair ~~of~~ at the ~~physical plant of the South Dakota School for the Deaf and the~~ South Dakota School for the Blind and Visually ~~Handicapped~~Impaired; and

(2) Support locations utilized by South Dakota Services for the Deaf.

Section 6. That § 13-49-14.13 be AMENDED:

13-49-14.13. ~~Each~~ A person hired ~~at~~ by the South Dakota School for the Blind and Visually Impaired and ~~the~~ a person hired by South Dakota ~~School~~ Services for the Deaf~~to serve as superintendent or principal, in a teaching or teaching assistant position, in a certificated or licensed clinical employment~~

~~position, or on the residence hall staff in any capacity shall agree to~~ must submit to a fingerprint-based criminal background ~~investigation, by means of fingerprint checks~~ check by the Division of Criminal Investigation and the Federal Bureau of Investigation, if the person is to serve:

(1) As a superintendent;

(2) As an administrator;

(3) As a principal;

(4) In a teaching or teaching assistant position;

(5) In a certificated or licensed clinical position; or

(6) As residence hall staff.

The hiring ~~institution~~ entity shall submit ~~completed~~ fingerprint cards to the Division of Criminal Investigation before the ~~prospective new employee~~ person enters into service.

If no disqualifying record is identified at the state level, the fingerprints ~~shall~~ must be forwarded by the Division of Criminal Investigation to the Federal Bureau of Investigation for a national criminal ~~history record~~ background check.

Any person ~~whose employment is~~ subject to the requirements of this section may enter into service on a temporary basis, pending the receipt of results from the background ~~investigation~~check. The employing ~~institution~~ entity may, without liability, withdraw ~~its~~ an offer of employment, or terminate the temporary employment, without notice, if the report reveals that the person has been convicted of any crime involving moral turpitude, including traffic in narcotics, ~~that~~ which might justify suspension or revocation of a teaching ~~license~~ certificate pursuant to § 13-42-10, or which otherwise reveals circumstances that ~~reasonably~~ suggest ~~that~~ the person should not be employed ~~in the special school setting~~.

Section 7. That § 13-49-39 be AMENDED:

13-49-39. The collective bargaining provisions set forth in chapters 3-18 and 60-9A do not apply to any person employed by the Board of Regents or employed by an institution under the ~~authority~~ control of the Board of Regents, except for public employees at ~~the~~ South Dakota ~~School~~ Services for the Deaf ~~or~~ and the South Dakota School for the Blind and Visually Impaired, as provided in § 3-18-1.

Section 8. That § 13-51A-1 be AMENDED:

13-51A-1. Terms used in this chapter mean:

(1) "Acquire," ~~includes~~ to purchase, erect, build, construct, reconstruct, complete, repair, replace, alter, extend, better, equip, develop, and improve a project, including the acquisition and clearing of a site or sites therefor;

(2) "Board," the Board of Regents or its successor;

(3) "Federal agency," the United States of America, the President of the United States of America, the Department of Housing and Urban Development, or such other agency or agencies of the United States of America as may be designated or created to make loans or grants or both;

(4) "Institution," ~~includes~~ any of the following:

(a) Black Hills State University, located at Spearfish, South Dakota;

(b) Dakota State University, located at Madison, South Dakota;

(c) Northern State University, located at Aberdeen, South Dakota;

(d) South Dakota State University, located at Brookings, South Dakota;

(e) University of South Dakota, located at Vermillion, South Dakota;

(f) South Dakota School of Mines and Technology, located at Rapid City, South Dakota;

(g) School for the Blind and the Visually Impaired, located at Aberdeen, South Dakota; and

(h) ~~School~~ South Dakota Services for the Deaf~~, located at Sioux Falls, South Dakota~~;

and their branches;

(5) "Project," ~~includes~~ revenue producing buildings, structures, and facilities which, as determined by the board, are required by, or necessary for the use or benefit of, each such institution, including, without limiting the generality of the foregoing, the following: student residence halls; apartments; staff housing facilities; dormitories; health, hospital, or medical facilities; dining halls; student union buildings; field houses; stadiums; physical education installations and facilities; auditoriums; facilities for student or staff services; any facility or building leased to the United States of America; off-street parking facilities; whether heretofore acquired and now or hereafter used for any or all of the purposes aforesaid, as described in or as may be hereafter acquired under this chapter, with all equipment and appurtenant facilities; or any one, or more than one, or all, of the foregoing, or any combination thereof, for each such institution;

(6) "Each such institution," ~~includes~~ any institution or any combination of institutions as determined by the board.

Section 9. That § 13-61-3 be AMENDED:

13-61-3. The Board of Regents shall ~~make~~ promulgate rules, in accordance with chapter 1-26, to provide for~~the government~~ governance of the South Dakota School for the Blind and the Visually Impaired~~, consistent with the laws of this state, and in compliance with chapter 1-26, and to~~.

The board shall employ a superintendent and ~~such~~ instructors and staff~~as may be necessary. The superintendent and the instructional staff shall~~ who have ~~professional~~ knowledge concerning the educational needs of students with sensory disabilities.

The board may hire one person to serve as both the superintendent of ~~both~~ the South Dakota School for the Blind and the Visually Impaired and ~~the State School~~ as the administrator of South Dakota Services for the Deaf. The person shall receive a single salary.

Section 10. That § 13-62-1 be AMENDED:

13-62-1. ~~The State School~~South Dakota Services for the Deaf~~, located at Sioux Falls, in Minnehaha County, shall be~~ is under the control of the Board of Regents and ~~so~~ must be maintained and managed~~as to afford an appropriate education~~ to provide assistance and audiology and outreach services to ~~those~~ persons entitled to ~~its~~ the benefits of a school for the deaf.

Section 11. That § 13-62-2 be AMENDED:

13-62-2. The Board of Regents shall employ ~~a superintendent and such instructors and staff as may be~~ staff necessary ~~for the State School~~ to meet the needs of those persons entitled to benefits through South Dakota Services for the Deaf.

The~~superintendent and the instructional staff~~ administrator shall have ~~professional~~ knowledge concerning the educational needs of students with sensory disabilities. The ~~superintendent~~ administrator shall work ~~towards increasing~~ to increase knowledge and skill in the use of American sign language~~, to the extent feasible~~.

The board may hire one person to serve as both the superintendent of ~~both~~ the South Dakota School for the Blind and ~~the~~ Visually Impaired and ~~the State School~~ as the administrator of South Dakota Services for the Deaf. The person shall receive a single salary.

Section 12. That § 13-62-3 be AMENDED:

13-62-3. The ~~superintendent~~ administrator shall give a bond to the state in ~~the~~an amount ~~which shall be~~ fixed by the Board of Regents~~,~~ for the faithful discharge of ~~his~~ duties~~, which~~. The bond ~~shall~~ must be approved, recorded, and filed ~~according to the provisions of this code relating to~~ in the same manner as the ~~official~~ bonds of state officers.

Section 13. That § 13-62-4 be AMENDED:

13-62-4. The Board of Regents shall prescribe the duties of the ~~superintendent and shall have the power to employ and~~ administrator. The board may fix the compensation of all ~~other employees at the school~~ staff at South Dakota Services for the Deaf.

Section 14. That § 13-62-5 be AMENDED:

13-62-5. ~~It shall be the duty of the~~The Board of Regents ~~to~~ shall preserve and care for ~~buildings, grounds, and all the~~ all property ~~belonging to the school~~ used by South Dakota Services for the Deaf.

Section 15. That § 13-62-6 be AMENDED:

13-62-6. ~~All persons~~Any resident of this state who is under twenty-one~~years of age, whose~~ and has a hearing ~~impairment~~ status that precludes ~~successful~~ receiving educational benefits ~~of~~ through a public ~~schools, who are residents of the state, and capable of receiving instruction are eligible for programs provided by the state school for the deaf. Any~~ school is entitled to receive services through South Dakota Services for the Deaf.

South Dakota Services for the Deaf may assist any person who is not a resident of the state, ~~but~~ provided:

(1) The person meets~~all of the other qualifications included~~ the criteria established in this section~~, may be admitted to the school provided the~~;

(2) The Board of Regents determines that ~~the admittance does not exclude eligible residents of the~~ no resident of this state ~~and upon payment of board, tuition and care~~ is denied assistance as a result; and

(3) Payment is received for any charges established by the Board of Regents.

Section 16. That § 13-62-12 be AMENDED:

13-62-12. ~~It shall be the duty of the~~The Board of Regents~~to apply all funds~~ shall ensure the proper allocation of any money, effects, and property ~~which may be received, faithfully to the~~ received for the use and benefit of ~~the school~~South Dakota Services for the Deaf.

Section 17. That § 13-62-13 be AMENDED:

13-62-13. ~~It shall be the duty of the~~The Board of Regents~~to fix~~ shall establish the annual operating period of ~~the academic year of such school, which shall be in compliance with §§ 13-26-1 to 13-26-6, inclusive~~ South Dakota Services for the Deaf.

Section 18. That § 13-62-14 be AMENDED:

13-62-14. ~~It shall be the duty of the~~The Board of Regents ~~to make~~ shall promulgate rules, in ~~compliance~~ accordance with chapter 1-26, ~~as may be necessary~~ for the~~efficient government and operation of the school~~ governance and operations of South Dakota Services for the Deaf.

Section 19. That § 13-62-15 be AMENDED:

13-62-15. The Board of Regents may lease, for commercial purposes, portions of ~~School for the Deaf~~ buildings that are ~~no longer~~ not regularly and actively used by ~~the School for the Deaf in the conduct of school's operations~~South Dakota Services for the Deaf. The purposes, terms, and conditions of each lease ~~shall be both~~ must be economical and consistent with the stewardship of public property.

The board may permit a lessee to undertake renovations ~~on the following conditions~~ if:

(1) The ~~construction~~ renovation is ~~of~~ comparable to the kind and quality ~~as~~ of the original structure;

(2) The board has the right to prior review and approval of renovation designs and specifications that may affect shared building structural systems and related equipment and infrastructure;

(3) The lessee provides such as-built documentation as the board may require; and

(4) The lessee agrees that the title to the renovations ~~shall vest~~ vests with the board on behalf of the state.

The board shall establish lease ~~rental~~ rates that are consistent with ~~the rates for~~ those of commercial leases for comparable properties in Sioux Falls and Minnehaha County. The board may offer the leases to the public in any commercially reasonable manner.

Lease income received ~~through the leases~~ by the board pursuant to this section ~~shall be~~ is continuously appropriated to the ~~School for the Deaf~~board for use in maintaining the property and supporting the operations of ~~the School~~South Dakota Services for the Deaf.

Section 20. That § 35-2-6.1 be AMENDED:

35-2-6.1. No on-sale or off-sale license may be granted under this title to operate on the campus of any state educational institution. However, if the outside boundary of any state educational institution is extended, this section does

not apply to any license granted previous to the extension.

This section does not apply to the~~school for the deaf established by chapter 13-62~~ South Dakota Services for the Deaf.

For the purpose of this section, the term, campus, means only the area immediately surrounding the buildings used for classrooms, administrative offices, and housing.

Notwithstanding ~~the provisions of~~ this section:

(1) An alcoholic beverage license may be issued pursuant to subdivisions 35-4-2(12) and (16) for the sole purpose of permitting the licensee to engage in the periodic retail sale of malt beverages, or wine, for consumption on-site, at a location and time~~,~~ authorized by the Board of Regents, ~~that~~ which involves the performing arts, intercollegiate athletics, fund raising, a reception, a conference, or an occasional or scheduled event at a facility used for performing arts, intercollegiate athletics, events, or receptions; and

(2) A special events license may be issued, pursuant to §§ 35-4-124, 35-4-124.1, and 35-4-125, for a special event authorized by the Board of Regents~~that~~, which involves the performing arts, intercollegiate athletics, fund raising, a reception, a conference, or an occasional or scheduled event.

Signed February 22, 2023

Chapter 63
(House Bill 1004)

An Act to update a reference to the Internal Revenue Code for purposes of higher education savings plans.

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

Section 1. That § 13-63-1 be AMENDED:

13-63-1. Terms used in this chapter mean:

(1) "Account," an account established as prescribed in this chapter;

(2) "Account owner," the person who, under this chapter or rules promulgated by the council pursuant to chapter 1-26, is entitled to select or change the designated beneficiary of an account, to designate any person other than the designated beneficiary to whom funds may be paid from the account, or to receive distributions from the account if no such other person is designated;

(3) "Cash," currency, bills, and coins in circulation. A negotiable instrument may be converted to cash if properly endorsed and presented to a financial institution for deposit. An automatic transfer, cashier's check, certified check, money order, payroll deposit, traveler's check, personal check, and wire transfer may also be converted to cash if presented to a financial institution for deposit;

(4) "Contribution," any payment directly allocated to an account for the benefit

of a designated beneficiary or used to pay late fees or administrative fees associated with an account, and that portion of any rollover amount treated as a contribution under section 529 of the Internal Revenue Code;

(5) "Contributor," any person making a contribution to an account;

(6) "Council," the South Dakota Investment Council;

(7) "Designated beneficiary," except as provided in § 13-63-25, the individual designated at the time the account is opened as the individual whose higher education expenses are expected to be paid from the account or, if this designated beneficiary is replaced in accordance with § 13-63-12, 13-63-13, or 13-63-14, the replacement beneficiary;

(8) "Eligible education institution," as defined in section 529(e)(5) of the Internal Revenue Code;

(9) "Financial institution," any bank, commercial bank, national bank, savings bank, savings and loan association, credit union, an insurance company, brokerage firm, or other similar entity that is authorized to do business in this state;

(10) "Investment direction," specifying or attempting to specify the particular financial instruments or ownership interests either individually, or within a fund family or other group of financial instruments or ownership interests held as an investment group, into which the contributions or earnings are invested. Selecting an initial type of investment program if more than one program is offered does not constitute an investment direction;

(11) "Internal Revenue Code," the United States Internal Revenue Code as amended and in effect on January 1, ~~2022~~2023;

(12) "Member of the family," as defined in section 529(e)(2) of the Internal Revenue Code;

(13) "Person," an individual, a corporation, a partnership, a trust or estate, a joint-stock company, an association, or a syndicate, group, pool, joint venture, or other unincorporated organization or group;

(14) "Program," the higher education savings program established under this chapter;

(15) "Program manager," any financial institution selected by the council to act as the depository and manager for an account;

(16) "Qualified higher education expenses," as defined in section 529(e)(3) of the Internal Revenue Code;

(17) "Qualified tuition program," as defined in section 529(b) of the Internal Revenue Code;

(18) "Rollover," a disbursement or transfer from an account of a designated beneficiary that is transferred to or deposited within sixty days into an account of the same designated beneficiary or another individual who is a member of the family of the designated beneficiary, if the transferee account was created under this chapter or under a qualified tuition program maintained by another state in accordance with section 529 of the Internal Revenue Code, or any other rollover allowed by section 529 of the Internal Revenue Code.

Signed February 9, 2023

COURTS AND JUDICIARY

Chapter 64
(Senate Bill 89)

An Act to increase the daily maximum award for the alternative care program administered by the Unified Judicial System.

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

Section 1. That § 16-2-60 be AMENDED:

16-2-60. There is hereby established the alternative care program to be administered by the Unified Judicial System. The Unified Judicial System shall award grants to nonprofit entities within the State of South Dakota that provide indigent adults with extended residential alternative care programs designed to reduce the risk of recidivism. The grants shall be awarded for room and board costs for South Dakota residents of the program with a maximum award of ~~thirty~~ fifty dollars per day per resident. Any grant award shall be distributed in quarterly installments.

Signed March 23, 2023

JUDICIAL REMEDIES

Chapter 65
(House Bill 1090)

An Act to modify protections for agricultural operations from nuisance claims.

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

Section 1. That § 21-10-25 be AMENDED:

21-10-25. If an action pursuant to § 21-10-1 is brought against ~~a farm~~ an agricultural operation existing continuously, prior to ~~such~~ the action, and which is located within one mile of the boundaries of the land use or occupancy of the plaintiff, and if the court finds there was no reasonable ground or cause for ~~said~~ the action, the costs may be assessed to ~~such~~ the plaintiff.

Section 2. That § 21-10-25.2 be AMENDED:

21-10-25.2. No agricultural operation or any of its appurtenances may be deemed to be a nuisance, private or public, by any changed conditions in the locality of the operation or its appurtenances, after the ~~facility has been in operation~~ operation has been in existence for more than one year, if the ~~facility~~ operation was not a nuisance at the time the operation began.

Any agricultural operation protected pursuant to ~~the provisions of~~ this section may reasonably expand its operation ~~in terms of acres or animal units~~, without losing its protected status, if all county, municipal, state, and federal environmental codes, laws, ~~or~~ and regulations are met by the agricultural operation.

The protected status of an agricultural operation, once acquired, is assignable, alienable, and inheritable. The protected status of an agricultural operation, once acquired, may not be waived by the temporary cessation of farming ~~or~~, by diminishing the size of the operation, or by a change in the type of feeding operation or crop produced. ~~The provisions of this~~

This section ~~do~~ does not apply if a nuisance results from the negligent or improper operation of ~~any such~~ an agricultural operation or its appurtenances.

Section 3. That § 21-10-25.3 be AMENDED:

21-10-25.3. As used in ~~§§ 21-10-25.1 to 21-10-25.6, inclusive~~ this chapter, the term ~~"~~, agricultural operation ~~and its appurtenances"~~, includes any facility or appurtenance used in the production or commercial processing ~~for commercial purposes~~ of crops, timber, livestock, swine, poultry, livestock products, swine products, or poultry products, or in any agrotourism activity as defined in § 20-9-12.

Section 4. That chapter 21-10 be amended with a NEW SECTION:

The compensatory damages that may be awarded to a plaintiff for a private nuisance action, in which the alleged nuisance resulted from an agricultural operation are as follows:

(1) If the nuisance is a permanent nuisance, compensatory damages are measured by the reduction in the fair market value of the plaintiff's property caused by the nuisance, but not exceeding the fair market value of the property; and

(2) If the nuisance is a temporary nuisance, compensatory damages are limited to the reduction in the fair rental value of the plaintiff's property caused by the nuisance.

Section 5. That chapter 21-10 be amended with a NEW SECTION:

Any punitive damages claim in a private nuisance action brought against an agricultural operation is determined pursuant to § 21-3-2. Additionally, a plaintiff may not recover punitive damages in a nuisance action against an agricultural operation unless:

(1) The alleged nuisance is based on substantially the same conduct that was subject to a civil enforcement judgment or criminal conviction taken by any county, municipal, state, or federal environmental regulatory agency pursuant to a notice of violation for the conduct alleged to be the source of the nuisance; and

(2) The conviction or judgment occurred within three years of the first action forming the basis of the nuisance action.

Section 6. That chapter 21-10 be amended with a NEW SECTION:

Sections 4 and 5 of this Act do not:

(1) Apply to any cause of action brought against an agricultural operation for negligence, trespass, personal injury, strict liability, or other cause of

action for tort liability, other than nuisance; and

(2) Prohibit or limit any request for injunctive relief that is otherwise available.

Section 7. That chapter 21-10 be amended with a NEW SECTION:

A nuisance action may not be filed against an agricultural operation unless the plaintiff is an owner or lessee of the real property affected by the conditions alleged to be a nuisance, and the real property is located within one mile of the source of the activity or structure alleged to be a nuisance.

An agricultural operation may not be held liable for nuisance unless the plaintiff proves by clear and convincing evidence that the claim arises out of conduct that did not comply with any county, municipal, state, or federal law or regulation.

Section 8.

The Code Commission, in future supplements and revisions of South Dakota Codified Laws, shall renumber § 21-10-25.3 to § 21-10-25, § 21-10-25 to § 21-10-25.1, § 21-10-25.1 to § 21-10-25.2, and § 21-10-25.2 to § 21-10-25.3.

The Code Commission is authorized and directed, pursuant to § 2-16-9, to correct and integrate all provisions and associated cross references that have been renumbered pursuant to this section.

Signed March 15, 2023

Chapter 66

(House Bill 1108)

An Act to revise provisions related to abandoned mobile or manufactured homes.

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

Section 1. That § 21-54-15 be AMENDED:

21-54-15. If a mobile home or manufactured home as defined in chapter 32-7A has been abandoned and left on leased real property, the owner of real property may sell or dispose of the mobile home or manufactured home under the provisions of this chapter. A mobile home or manufactured home is considered abandoned if the owner of the ~~mobile home or manufactured~~ home has not removed the home from the real property owner's land within thirty days of the court issuing a writ of possession as provided in chapter 21-16. Upon issuance of the writ of possession by the court, the owner of real property shall ~~give~~ send the owner of the mobile home or manufactured home and any lienholder with a lien properly noted pursuant to chapter 32-3, written notice of intent to sell or dispose of the home pursuant to this chapter if the home is not removed from the real property owner's property within thirty days. The notice ~~shall~~ must be sent to the last known address of the owner of the mobile home or manufactured home ~~at the owner's last known address~~. The Department of Revenue shall promulgate rules pursuant to chapter 1-26 to prescribe a form for the written notice. Any written notice shall be sent by certified mail. ~~The~~ Any sale is subject to any taxes owed on the home and unpaid lot rent but such unpaid lot rent lien may not exceed two

month's lot rent at the price previously agreed to by the owner of real property and owner of the mobile home or manufactured home.

Section 2. That § 21-54-16 be AMENDED:

21-54-16. After the owner of the abandoned mobile home or manufactured home has been provided thirty days' written notice, and before the owner of real property proceeds with the sale or disposal of the abandoned mobile home or manufactured home, the owner of the real property shall provide written notice of intent to sell or dispose of the abandoned property to the county treasurer where the home is located. The Department of Revenue shall promulgate rules pursuant to chapter 1-26 to prescribe a form for the written notice. If the treasurer has not issued a distress warrant and informed the owner and any lien holder of real property of such issuance within thirty days of the notice required by this section, or the mobile home or manufactured home has not been removed by its owner or any lien holder within thirty days of the notice provided by § 21-54-15, the owner of real property may proceed with the sale or disposal pursuant to this chapter.

Section 3. That chapter 21-54 be amended with a NEW SECTION:

If the owner of the real property intends to dispose of the mobile home or manufactured home in lieu of sale, the owner of the real property must first obtain an abandoned title after paying any taxes owed on the home.

Section 4. That § 21-54-18 be AMENDED:

21-54-18. If an owner of the real property obtains a title to a mobile home or manufactured home pursuant to § 21-54-17, the owner of the real property shall obtain a permit pursuant to § 32-5-16.3 to move the abandoned mobile home or manufactured home. If the owner of the real property obtains a title to a mobile home or manufactured home pursuant to § 21-54-17 and files an affidavit with the county treasurer stating that the owner is going to move the abandoned mobile home or manufactured home for the sole purpose of disposal, the county treasurer shall issue the permit provided by § 32-5-16.3 without receiving payment of the current year's taxes. If the owner of the real property obtains a title to a mobile home or manufactured home pursuant to section 3 of this Act, the county treasurer shall issue the permit provided by § 32-5-16.3 ~~without receiving payment of the current year's taxes~~. The Department of Revenue shall promulgate rules pursuant to chapter 1-26 to prescribe a form for the affidavit.

Signed March 23, 2023

CRIMES

Chapter 67

(Senate Bill 48)

An Act to enhance the penalty for attempted first degree murder of a law enforcement officer.

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

Section 1. That § 22-4-1 be AMENDED:

22-4-1. Unless specific provision is made by law, any person who attempts to commit a crime and, in the attempt, does any act toward the commission of the crime, but fails or is prevented or intercepted in the perpetration of that crime, is punishable for ~~such~~ the attempt at a maximum sentence of one-half of the penalty prescribed for the underlying crime. ~~However,~~ Unless specific provision is made by law, any person who attempts to commit a Class A, Class B, or Class C felony is guilty of a Class 2 felony.

Section 2. That chapter 22-4 be amended with a NEW SECTION:

Notwithstanding § 22-4-1, attempted first degree murder, as defined by § 22-16-4, if committed against a law enforcement officer while the officer was engaged in the performance of the officer's duties, is a Class 1 felony.

Signed March 6, 2023

Chapter 68

(Senate Bill 50)

An Act to revise the crime of witness tampering.

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

Section 1. That § 22-11-19 be AMENDED:

22-11-19. Any person who injures~~,~~ or threatens to injure~~,~~ any person or property~~, or, with intent to influence a witness,~~; who offers, confers, or agrees to confer any benefit on a witness or prospective witness in an official proceeding; or who corruptly persuades or corruptly influences another person to induce the witness to:

(1) Testify falsely;

(2) Withhold any testimony, information, document, or thing;

(3) Elude legal process summoning the witness to testify or supply evidence; or

(4) Absent himself or herself from an official proceeding to which the witness has been legally summoned;

is guilty of tampering with a witness. Any person who injures, or threatens

to injure, any person or property in retaliation for that person testifying in an official proceeding, or for cooperating with law enforcement, government officials, investigators, or prosecutors, is guilty of tampering with a witness. Tampering with a witness is a Class 4 felony.

For the purposes of this section, the term, corruptly, means wrongful or immoral and done with an intent to impede the administration of justice.

Signed March 8, 2023

Chapter 69

(House Bill 1220)

An Act to provide that a female who undergoes an unlawful abortion may not be held criminally liable.

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

Section 1. That chapter 22-17 be amended with a NEW SECTION:

A female who undergoes an unlawful abortion, as set forth in § 22-17-5.1, may not be held criminally liable for the abortion.

Signed March 14, 2023

Chapter 70

(Senate Bill 91)

An Act to revise certain provisions regarding the crime of rape and provide a penalty therefor.

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

Section 1. That § 22-22-1 be AMENDED:

22-22-1. Rape is an act of sexual penetration accomplished with any person under any of the following circumstances:

(1) If the victim is less than thirteen years of age; ~~or~~

(2) Through the use of force, coercion, or threats of immediate and great bodily harm against the victim or other persons within the victim's presence, accompanied by apparent power of execution; ~~or~~

(3) If the victim is incapable, because of physical or mental incapacity, of giving consent to such act and the perpetrator knows or reasonably should know of the victim's incapacity; ~~or~~

(4) If the victim is incapable of giving consent because of any intoxicating, narcotic, or anesthetic agent or hypnosis and the perpetrator knows or reasonably should know the victim is incapable of giving consent; ~~or~~

(5) If the victim is thirteen years of age, but less than sixteen years of age, and the perpetrator is at least three years older than the victim; or

(6) Without the victim's consent and the perpetrator knows or reasonably should know the victim is not consenting.

A violation of subdivision (1) ~~of this section~~ is rape in the first degree, which is a Class C felony. A violation of subdivision (2) ~~of this section~~ is rape in the second degree which is a Class 1 felony. A violation of subdivision (3) or (4) ~~of this section~~ is rape in the third degree, which is a Class 2 felony. A violation of subdivision (5) ~~of this section~~ or (6) is rape in the fourth degree, which is a Class 3 felony.

Notwithstanding the provisions of § 23A-42-2, no statute of limitations applies to any charge brought pursuant to ~~subdivisions~~ subdivision (1) or (2) ~~of this section~~. Otherwise, a charge brought pursuant to this section may be commenced at any time ~~prior to the time~~ before the victim ~~becomes of~~ reaches age twenty-five or within seven years ~~of~~ from the commission of the crime, whichever is longer.

Signed March 20, 2023

Chapter 71

(Senate Bill 90)

An Act to provide certain definitions related to the crime of rape.

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

Section 1. That chapter 22-22 be amended with a NEW SECTION:

Terms used in this chapter mean:

(1) "Consent," a person's positive cooperation in act or attitude pursuant to the person's exercise of free will;

(2) "Force," the use of physical effort sufficient to overcome, restrain, injure, or prevent escape;

(3) "Mental incapacity," a mental or developmental disease or disability that renders a person incapable of appraising the nature of the person's conduct; and

(4) "Physical incapacity," a person's incapability of resisting because the person is unconscious, asleep, or is subject to another physical condition that prevents the person from giving consent or resisting.

Signed March 20, 2023

Chapter 72

(Senate Bill 176)

An Act to modify certain requirements for removal from the sex offender registry.

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

Section 1. That chapter 22-24B be amended with a NEW SECTION:

Notwithstanding §§ 22-24B-19 and 22-24B-19.1, an offender who is required to register in this state as a sex offender because of any crime committed in another jurisdiction, if that jurisdiction also requires anyone convicted of that crime to register as a sex offender, may petition to be removed from the registry of this state if the offender is eligible to be removed under the laws of the jurisdiction where the conviction occurred. In addition to the documentation required pursuant to § 22-24B-18, to be eligible to be removed under this section, the petitioner must provide a certified copy of the final order from the convicting jurisdiction removing the offender from the registry of the convicting jurisdiction.

Section 2. That § 22-24B-17 be AMENDED:

22-24B-17. Any person required to register under this chapter who is eligible to seek removal from the registry, as provided for in § 22-24B-19 ~~or~~, 22-24B-19.1, or section 1 of this Act, may petition the circuit court in the county where the person resides for an order terminating the person's obligation to register. If the person seeking removal from the registry is not a resident of this state, but is required to register under other requirements of § 22-24B-2, then the person may petition the circuit court of any county of this state where the person is currently registered. The offender shall serve the petition and all supporting documentation on the state's attorney in the county where the offender is currently registered, the office of the prosecutor in the jurisdiction where the offense occurred, and the ~~Attorney General~~ attorney general. The ~~Attorney General's~~ attorney general's office shall respond to each petition to request removal from the sex offender registry.

No person petitioning the court under this section for an order terminating the person's obligation to register is entitled to court appointed counsel, experts, or publicly funded witnesses.

Section 3. That § 22-24B-20 be AMENDED:

22-24B-20. If the court finds that all of the criteria described in § 22-24B-19 ~~or~~, 22-24B-19.1, or section 1 of this Act have been met and that the petitioner is not likely to offend again, then the court may, in its discretion, enter an order terminating the petitioner's obligation to register in this state and require the removal of petitioner's name from the registry. However, if the court finds that the offender has provided false, misleading, or incomplete information in support of the petition, or failed to serve the petition and supporting documentation upon the respondent, then the petition may be denied. If the petition is denied, the petitioner may not file a subsequent petition for at least two years from the date the previous petition was denied.

Signed March 9, 2023

Chapter 73

(House Bill 1041)

An Act to provide an exception to the definition of drug paraphernalia.

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

Section 1. That § 22-42A-1 be AMENDED:

22-42A-1. ~~The~~For purposes of this chapter, the term, drug paraphernalia, means any equipment, ~~products, and materials of any kind which are~~ product, or material that is primarily used, intended for use, or designed for use by the person in possession of ~~them~~ it, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body any controlled substance or marijuana in violation of the provisions of this chapter. ~~It~~Drug paraphernalia includes~~, but is not limited to~~:

(1) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing, or harvesting of any species of plant ~~which~~ that is a controlled substance or marijuana or from which a controlled substance can be derived;

(2) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;

(3) Isomerization devices used, intended for use, or designed for use in increasing the potency of marijuana or any species of plant ~~which~~ that is a controlled substance;

(4) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;

(5) Diluents and adulterants, ~~such as~~ including quinine hydrochloride, mannitol, mannite, dextrose, and lactose, used, intended for use, or designed for use in cutting controlled substances;

(6) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;

(7) Capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances or marijuana;

(8) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances or marijuana;

(9) Hypodermic syringes, needles, and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body; and

(10) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, ~~such as~~ including:

(a) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or

punctured metal bowls;

(b) Water pipes;

(c) Carburetion tubes and devices;

(d) Smoking and carburetion masks;

(e) Roach clips: meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;

(f) Miniature cocaine spoons and cocaine vials;

(g) Chamber pipes;

(h) Carburetor pipes;

(i) Electric pipes;

(j) Air-driven pipes;

(k) Chillums;

(l) Bongs; and

(m) Ice pipes or chillers.

For purposes of this chapter, drug paraphernalia does not include a product that detects the presence of fentanyl or a fentanyl analog in a controlled substance.

Signed February 22, 2023

LAW ENFORCEMENT

Chapter 74
(Senate Bill 98)

An Act to identify the means of conducting a criminal background check for the renewal of a gold card or an enhanced permit to carry a concealed pistol.

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

Section 1. That § 23-7-56 be AMENDED:

23-7-56. A person who holds an enhanced permit to carry a concealed pistol may renew the permit through the sheriff of the county in which the person resides. The period for renewal begins one-hundred eighty days before the permit expires and ends thirty days after the permit expires.

In order to renew an enhanced permit a person shall:

(1) Pass a criminal background check consisting of a computer check of available online records and a check utilizing the National Instant Criminal Background Check System; and

(2) Present proof that:

(a) During the period for renewal, as set forth in this section, the person:

(i) Successfully completed the live fire component of a qualifying handgun course defined in § 23-7-58;

(ii) Received instruction regarding the use of force standards; and

(iii) Received instruction regarding relevant criminal statutory changes; or

(b) The person is a current or former law enforcement officer who, within the twelve-month period preceding the date of the expiration, qualified or requalified on a certified shooting course administered by a firearms instructor approved by the Law Enforcement Officers Standards Commission.

If a person fails to renew an enhanced permit to carry a concealed pistol during the period set forth in this section, the permit is deemed to be invalid. In order to obtain an enhanced permit thereafter, the person shall submit an application and meet all requirements set forth in § 23-7-53.

Section 2. That § 23-7-62 be AMENDED:

23-7-62. A person who holds a gold card permit to carry a concealed pistol may renew the permit through the sheriff of the county in which the person resides. The period for renewal begins one hundred eighty days before the permit expires and ends thirty days after the permit expires.

In order to renew a gold card permit, a person must pass a criminal background check consisting of a computer check of available online records and a check utilizing the National Instant Criminal Background Check System.

Signed February 28, 2023

Chapter 75

(House Bill 1071)

An Act to establish use of force course standards.

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

Section 1. That § 23-7-59 be AMENDED:

23-7-59. The Division of Criminal Investigation shall, at least once every six months, offer ~~at least one~~ a course that is focused on the use of force, including applicable state laws, ~~per year,~~ and open to National Rifle Association certified pistol instructors.

The Division of Criminal Investigation shall develop the use of force course and ~~may~~ promulgate rules, pursuant to chapter 1-26, to ~~establish the~~:

(1) Establish course standards for instructors seeking the issuance of ~~a~~ an initial certificate of completion~~, establish~~ ;

(2) Establish course standards for instructors seeking the renewal of a certificate;

(3) Establish a fee for the course not to exceed one hundred fifty dollars~~,~~; and~~to implement~~

(4) Provide for implementation of the course.

Signed February 9, 2023

Chapter 76

(House Bill 1222)

An Act to limit the liability of permit and certificate-issuing entities and certified use of force instructors.

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

Section 1. That § 23-7-7.2 be AMENDED:

23-7-7.2. An ~~issuing~~ authority that ~~has~~ issued a permit to carry a concealed pistol in accordance with this chapter ~~may~~ is not ~~be held civilly~~ liable to any person or ~~the~~ a person's estate for any injury suffered, including ~~any action for~~ wrongful death, or ~~for property damage~~any damages, because the ~~issuing~~ authority issued the permit ~~For purposes of this section, the Division of Criminal Investigation is an issuing authority when issuing a certificate of completion pursuant to § 23-7-59~~.

Section 2. That § 23-7-59 be AMENDED:

23-7-59. The Division of Criminal Investigation shall, at least once every six months, offer ~~at least one~~ a course that is focused on the use of force, including applicable state laws, ~~per year,~~ and open to National Rifle Association certified pistol instructors. The Division of Criminal Investigation shall develop the use of force course and ~~may~~ promulgate rules, pursuant to chapter 1-26, to ~~establish the~~:

(1) Establish course standards for instructors seeking the issuance of ~~a~~ an initial certificate of completion~~, establish~~;

(2) Establish course standards for instructors seeking the renewal of a certificate;

(3) Establish a course fee ~~for the course~~ not to exceed one hundred fifty dollars~~, and to implement the course~~; and

(4) Provide for implementation of the course.

The Division of Criminal Investigation is not liable to any person or the person's estate for any injury suffered, including wrongful death, or for any damages, because the division issued a certificate of completion under this section.

Section 3. That chapter 23-7 be amended with a NEW SECTION:

An instructor, certified in accordance with § 23-7-59, is not liable for any personal injury, wrongful death, or damages, resulting from the conduct, acts, or omissions of a current or former student handling a firearm, unless the instructor,

during the course of providing instruction, engaged in gross negligence or willful or wanton misconduct.

Signed February 28, 2023

Chapter 77

(Senate Bill 81)

An Act to repeal outdated sections regarding enhanced concealed carry permit requirements.

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

Section 1. That § 23-7-54.1 be REPEALED:

~~For any person holding an enhanced concealed carry permit, issued from July 1, 2015, to December 31, 2016, inclusive, an additional fingerprint background check and National Instant Criminal Background Check must be conducted through the sheriff of the county in which the person resides. The additional background check must be conducted pursuant to § 23-7-54.~~

~~Following receipt of the confirmation that the person passed each criminal background check pursuant to §§ 23-7-53 and 23-7-54, the sheriff shall submit an authorization to reissue the person's enhanced concealed carry permit with the secretary of state.~~

~~A permit reissued under this section is valid only for five years from the date of its original issuance and upon its expiration, must be renewed in accordance with § 23-7-56.~~

~~No additional charge may be imposed for a reissuance under this section.~~

Section 2. That § 23-7-54.3 be REPEALED:

~~Any individual between eighteen and twenty years of age, inclusive, holding an enhanced concealed carry permit, issued between July 1, 2015, and March 9, 2018, shall be issued a new temporary restricted enhanced permit that designates the permit is for individuals eighteen to twenty years of age, inclusive.~~

Signed March 8, 2023

CRIMINAL PROCEDURE

Chapter 78

(Senate Bill 72)

An Act to revise provisions related to the discharge of a defendant restored to competency.

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

Section 1. That § 23A-10A-4.1 be AMENDED:

23A-10A-4.1. If the director of the facility under which the defendant is being treated– in accordance with § 23A-10A-4 determines that the defendant has recovered to an extent that the defendant is able to understand the nature and consequences of the proceedings against the defendant and to assist properly in the defense, the director shall promptly file a certificate to that effect with the clerk of the court that ordered the placement or commitment, and the defendant shall be discharged from the facility where the defendant is hospitalized, if applicable. Upon discharge, the defendant is subject to the provisions of chapter 23A-43.

The court shall send a copy of the certificate to the defendant's counsel and to the prosecuting attorney. The court shall hold a hearing, conducted under the provisions of § 23A-46-3, to determine the competency of the defendant. If, after the hearing, the court finds by a preponderance of the evidence that the defendant has recovered to an extent that the defendant is capable of understanding the nature and consequences of the proceedings against the defendant and to assist properly in the defense, the court ~~shall order the defendant's immediate discharge from the facility where the defendant is hospitalized if applicable and~~ shall set the date for trial. ~~Upon discharge, the defendant is subject to the provisions of chapter 23A-43.~~ If, after the hearing, the court does not find by a preponderance of the evidence that the defendant has recovered to an extent that the defendant is capable of understanding the nature and consequences of the proceedings against the defendant and to assist properly in the defense, the court shall order the defendant to be placed in a restoration to competency program under the direction of an approved facility, in an approved facility, or on outpatient status for restoration to competency if the court makes a written finding that the defendant is not considered to be a danger to the health and safety of others and is otherwise eligible for bond for a term consistent with this section and §§ 23A-10A-14 and 23A-10A-15.

Signed March 8, 2023

Chapter 79

(Senate Bill 64)

An Act to repeal provisions related to the jail mental health screening pilot program and oversight council.

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

Section 1. That § 23A-10A-17 be REPEALED:

~~The Unified Judicial System shall collect and report to the oversight council the average number of days from court order to the completion of competency examinations, and the number of competency examination continuances for good cause requested and granted.~~

Section 2. That § 23A-50-1 be AMENDED:

23A-50-1. Terms used in this chapter and §~~§ 23A-10A-17,~~ 23A-46-1~~, and 24-11-55 to 24-11-59, inclusive,~~ mean:

(1) "Mental health response team," a support team tasked with finding viable community resources to help persons with severe mental illness involved

in the court system;

~~(2) "Mental health screening tool," a brief, routine process using a standardized instrument that has been validated with offender populations to identify indicators of mental health issues that is used to determine a need for further mental health assessment or evaluation;~~

~~(3) "Oversight council," the council established by § 23A-50-12;~~

~~(4) "Performance measure," a metric that captures performance on critical variables central to accomplishing the mission and goals within this chapter;~~

~~(5)~~(2) "Psychiatric certification," a credential obtained by passing the psychiatric-mental health nursing board certification through the American Nurses Credentialing Center; and

~~(6)~~(3) "Telehealth," a mode of delivering healthcare services that utilizes information and communication technologies to enable the diagnosis, consultation, treatment, education, care management, and self-management of patients at a distance from health care providers.

Section 3. That § 23A-50-2 be REPEALED:

~~The Department of Social Services shall create a crisis services grant program to any municipality, county, or groups of counties for the purposes of encouraging the establishment of new crisis response services or the expansion of existing crisis response services. The grant program shall be in existence until the grant program funding is exhausted. The department shall collect data on the number of applications for the grant program, the number and percentage of applications accepted, the amount awarded to each grantee, and the location, purpose, and population served by the crisis response services. The department shall report this information semiannually to the oversight council until the program ends.~~

Section 4. That § 23A-50-3 be REPEALED:

~~The Unified Judicial System shall collect and report to the oversight council the number and percent of defendants for whom mental health assessment and mental health treatment is required as a condition of bond, and the number and percent of those with assessment and treatment as a condition of bond who comply with conditions.~~

Section 5. That § 23A-50-4 be REPEALED:

~~The Unified Judicial System shall report semiannually to the oversight council the number of persons referred to any mental health court, the number and the percentage admitted to any mental health court, the number and the percentage of those admitted who complete mental health court requirements, and the number and the percentage of persons convicted of a new crime within one to three years of completing mental health court requirements.~~

Section 6. That § 23A-50-5 be AMENDED:

23A-50-5. The Association of County Commissioners, formed pursuant to § 7-7-28, may create and administer a fund for the purpose of assisting counties with the cost of competency evaluations for defendants for whom an evaluation has been ordered by the court. The Department of Social Services may contract with the association to reallocate funds used at the Human Services Center on contractual services for forensic evaluations to be administered through this fund.

The fund may also receive and distribute money from any other source. The association board of directors shall provide procedures for the equitable distribution of money from this fund to the counties utilizing court-ordered competency evaluations and provide for the payment of an administrative fee and other reasonable expenses related to the administration of the fund. The association shall report to the ~~oversight council~~ Department of Social Services the amount distributed annually in total and by county and the number of competency evaluations completed with funds from the program. The liability of the association related to the administration of this fund shall be limited to the money as is available for such purposes in the fund.

Section 7. That § 23A-50-6 be AMENDED:

23A-50-6. The presiding judge of each judicial circuit may appoint one or more mental health response teams. Each team appointed ~~shall~~ must include a court services officer for the jurisdiction where the team is to operate, a mental health provider, and a member of law enforcement, and may also include a representative that works with jail administration and one or more representatives from the public. The Unified Judicial System shall maintain a record of the membership of each team ~~and report nonidentifying data to the oversight council~~. The team may operate telephonically or through electronic communications.

The records prepared or maintained by the team are confidential. Notwithstanding, the records may be inspected by or disclosed to justices, judges, magistrates, and employees of the Unified Judicial System in the course of their duties or to any person specifically authorized by order of the court.

Section 8. That § 23A-50-8 be REPEALED:

~~The Unified Judicial System shall collect and report to the oversight council the name of any circuits that establish mental health response teams, the number of persons meeting the mental health response team criteria, and the number and the percentage of persons meeting the criteria who are released from jail pretrial and referred for mental health assessment or treatment.~~

Section 9. That § 23A-50-12 be REPEALED:

~~There is hereby established an oversight council responsible for monitoring and reporting performance and outcome measures related to the provisions set forth in this chapter and §§ 24-11-55, 24-11-58, 23A-10A-17, and 24-11-58. The Unified Judicial System shall provide staff support for the council.~~

Section 10. That § 23A-50-13 be REPEALED:

~~The oversight council shall be composed of fourteen members. The Governor shall appoint the following four members: a member from the Department of Social Services; a member from law enforcement; a member from a mental health provider; and one at-large member. The Chief Justice shall appoint the following four members: a member who is a criminal defense attorney; a member who is a judge; one member who is a county commissioner; and one at-large member. The majority leader of the Senate shall appoint two senators, one from each political party. The majority leader of the House of Representatives shall appoint two representatives, one from each political party. The attorney general shall appoint two members, one of whom shall be a state's attorney.~~

Section 11. That § 23A-50-14 be REPEALED:

~~The oversight council shall meet within ninety days after appointment and shall meet at least semiannually thereafter. The oversight council terminates five~~

~~years after its first meeting, unless the Legislature, by Joint Resolution, continues the oversight council for a specified period of time.~~

~~The oversight council has the following powers and duties:~~

~~(1) Review the recommendations of the task force on community justice and mental illness early intervention from the final report dated November 2016 and track implementation and evaluate compliance with SL 2017, chapter 109;~~

~~(2) Review data and reporting required by SL 2017, chapter 109;~~

~~(3) Review compliance with the training required by SL 2017, chapter 109;~~

~~(4) Calculate costs averted by the provisions in SL 2017, chapter 109;~~

~~(5) Establish a statewide crisis intervention training review team. The review team shall analyze and make recommendations to the oversight council on the ongoing need for a crisis intervention training coordinator to provide training and technical assistance to cities, counties, or regions across the state; build local capacity for crisis intervention; and expand the number of crisis intervention trained law enforcement officers. The crisis intervention training review team shall collect and report semiannually to the oversight council data on the number of requests for assistance from the crisis intervention training coordinator, the names of the agencies submitting the requests for assistance, the number of requests granted, the number of law enforcement officers trained, and training adherence to the Memphis crisis intervention team model or other evidence-based model. The crisis intervention review team shall, upon completion of the first year of the crisis intervention training coordinator funding, make a recommendation to the oversight council as to the continued funding of the crisis intervention training coordinator. The review team shall terminate upon the recommendation of the oversight council;~~

~~(6) Review the recommendations of the crisis intervention team training review team;~~

~~(7) Review the crisis response grants distributed pursuant to § 23A-50-2;~~

~~(8) Review the Division of Criminal Investigation's development of training on mental illness;~~

~~(9) Evaluate the need for and feasibility of a statewide crisis call center or regional call centers for persons in crisis;~~

~~(10) Track progress and make recommendations to improve the implementation of mental health screenings in jails pursuant to §§ 24-11-55 to 24-11-58, inclusive;~~

~~(11) Establish a work group to make recommendations to the council to create a process for the completion of a mental health assessment following a jail mental health screening. The work group shall estimate the cost of assessments needed following screening at the time of jail intake, using data from the jail mental health screening pilot program; examine payment options including cost-sharing between state and counties; determine improvements to information sharing between jails and mental health providers; and consider whether an individual with a screening indicating the need for assessment has a pre-existing relationship with a mental health provider;~~

~~(12) Review the payments to counties for mental competency examinations and reports pursuant to § 23A-50-5;~~

~~(13) Evaluate the need for and feasibility of forensic assertive community treatment teams;~~

~~(14) Establish a work group that includes representatives from sheriffs, jail administrators, jail mental health staff providers, and community mental health providers to make recommendations to the council to improve information sharing among jails and mental health providers and improve coordination among jails and mental health providers to refer persons released from jail to mental health services;~~

~~(15) Monitor the competency evaluation funding program;~~

~~(16) Study and make recommendations to improve the recruitment and retention of mental health professionals;~~

~~(17) Study and make recommendations to expand access to mental health services for criminal justice populations;~~

~~(18) Evaluate the need for and feasibility and cost effectiveness of telehealth options for jail mental health assessments, consultations for law enforcement officers who encounter persons in crisis, crisis response during law enforcement encounters with persons in crisis, mental health services for persons on probation, and mental health services for persons in jail;~~

~~(19) Make recommendations to the Governor and Legislature regarding pilot programs for needed and feasible telehealth options to provide mental health services to persons with mental illness in the criminal justice system; and~~

~~(20) Prepare and submit an annual summary report of the performance and outcome measures that are part of SL 2017, chapter 109 to the Legislature, Governor, and Chief Justice. The report shall include recommendations for improvements and a summary of savings generated from SL 2017, chapter 109.~~

Section 12. That § 24-11-55 be REPEALED:

~~The South Dakota Sheriffs' Association shall develop a jail mental health screening pilot program and convene at least four jail administrators and at least two mental health providers to select a mental health screening tool for the pilot program. The pilot program shall include at least four jails. The jails in the pilot program shall utilize a mental health screening tool the during the jail intake process and shall collect and report data to the oversight council on the number of persons screened and the number of persons screening positive for signs and symptoms of acute psychiatric disturbance and disorder.~~

Section 13. That § 24-11-56 be REPEALED:

~~The South Dakota Sheriffs' Association shall coordinate training for jails to administer the jail mental health screening tool.~~

Section 14. That § 24-11-57 be REPEALED:

~~The South Dakota Sheriffs' Association shall coordinate with the jails in the jail mental health screening pilot program to develop a process to implement a mental health screening tool statewide.~~

Section 15. That § 24-11-58 be REPEALED:

~~Each jail shall report annually to the oversight council on the number and percentage of persons screened at intake using a mental health screening tool and the number and percentage of positive screenings.~~

Section 16. That § 24-11-59 be REPEALED:

~~Any jail using a mental health screening tool shall provide the screening results to the circuit committing magistrate or court.~~

Section 17. That § 24-11-59.1 be REPEALED:

~~Any statement made by a defendant in response to a question administered during a jail mental or physical health screening is not admissible against the defendant in the state's case in chief during any evidentiary proceeding related to the reason the defendant was confined in jail.~~

~~The screen shall be filed with the committing court and may be used in preparation of a presentence report and at sentencing. Prior to sentencing, the screen shall only be made available to the defendant, defendant's attorney, prosecuting attorney, court services, and any mental health provider ordered to provide an assessment of the defendant as a condition of bond.~~

Signed March 20, 2023

CORRECTIONAL FACILITIES AND PAROLE

Chapter 80

(Senate Bill 146)

An Act to limit parole for violent offenders.

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

Section 1. That chapter 24-15 be amended with a NEW SECTION:

For the purposes of this section, the term, offense, means any of the following:

(1) Manslaughter in the first degree, as defined in § 22-16-15;

(2) Kidnapping in the first degree, as defined in § 22-19-1;

(3) Rape in the first degree, as defined in § 22-22-1;

(4) Rape in the second degree, as defined in § 22-22-1;

(5) Torture of a human trafficking victim, as defined in § 22-49-5;

(6) Commission of a felony while armed with firearms, as defined in § 22-14-12;

(7) Aggravated assault against a law enforcement officer, firefighter, ambulance personnel, Department of Corrections employee or contractor, health care personnel, or other public officer, as defined in § 22-18-1.05;

(8) Aggravated battery of an infant, as defined in § 22-18-1.4;

(9) Assault with intent to cause serious permanent disfigurement, as defined in § 22-18-1.5;

(10) Robbery in the first degree, as defined in § 22-30-6;

(11) First degree burglary, as defined in § 22-32-1;

(12) First degree arson, as defined in § 22-33-9.1; and

(13) First degree human trafficking, as defined in § 22-49-2.

An inmate convicted of and sentenced for an offense as specified in this section, for a crime committed on or after July 1, 2023, is not eligible for parole by the Board of Pardons and Paroles, except as provided in §§ 24-15A-55 to 24-15A-68, inclusive. An inmate shall serve the full term of imprisonment imposed by the court for the offense. The court shall retain the discretion to suspend a portion of the prison sentence required. If the court suspends a portion of the prison sentence, the Board of Pardons and Paroles shall supervise the suspended time and has the authority to revoke the suspended portion of the sentence for failing to follow the conditions of release.

An inmate may earn any credit for which the inmate is eligible. However, such credits may only be used for increased privileges and may not be used to reduce the sentence imposed by the court.

Section 2. That chapter 24-15 be amended with a NEW SECTION:

For the purposes of this section, the term, offense, means any of the following:

(1) Vehicular homicide, as defined in § 22-16-41;

(2) Aggravated assault, as defined in § 22-18-1.1;

(3) Aggravated criminal battery of an unborn child, as defined in § 22-18-1.3;

(4) Kidnapping in the second degree, as defined in § 22-19-1.1;

(5) Second degree burglary, as defined in § 22-32-3;

(6) Riot, as defined in § 22-10-1;

(7) Manslaughter in the second degree, as defined in § 22-16-20;

(8) Second degree human trafficking, as defined in § 22-49-3;

(9) Felony child abuse, as defined in § 26-10-1; and

(10) Attempt to commit, or a conspiracy to commit, or a solicitation to commit any offense enumerated in section 1 of this Act.

An inmate convicted of and sentenced for an offense as specified in this section, for a crime committed on or after July 1, 2023, is not eligible for parole by the Board of Pardons and Paroles except as provided in §§ 24-15A-55 to 24-15A-68, inclusive. An inmate shall serve the full term of imprisonment imposed by the court for the offense. The court shall retain the discretion to suspend a portion of the prison sentence required. If the court suspends a portion of the prison sentence, the Board of Pardons and Paroles shall supervise the suspended time and has the authority to revoke the suspended portion of the sentence for failing to follow the conditions of release.

An inmate may earn any credit for which the inmate is eligible. However, such credits may only be used for increased privileges and may not be used to reduce the sentence imposed by the court, except as otherwise provided in this section.

Discharge credits earned pursuant to §§ 24-15A-50 and 24-15A-50.1 may be used to reduce an inmate's sentence by up to fifteen percent of the sentence imposed by the court that the inmate must serve before becoming eligible for release on parole. Discharge credits may not be used to alter the inmate's sentence expiration date.

Section 3. That § 24-15A-32 be AMENDED:

24-15A-32. ~~Each~~ For a crime committed before July 1, 2023, each inmate sentenced to a penitentiary term, except those under a sentence of life or death, or determined to be ineligible for parole as authorized in § 24-15A-32.1, ~~shall~~ must have an initial parole date set by the department. This date ~~shall~~ must be calculated by applying the percentage indicated in the following grid to the full term, minus any suspended time ~~of the inmate's sentence pursuant to § 22-6-1~~. The following crimes or an attempt to commit, ~~or~~ a conspiracy to commit, or a solicitation to commit~~,~~ any of the following crimes shall be considered a violent crime for purposes of setting an initial parole date: murder, manslaughter, rape, aggravated assault, riot, robbery, burglary in the first degree, burglary in the second degree if committed before July 1, 2006, arson, kidnapping, felony sexual contact as defined in § 22-22-7, child abuse, felony sexual contact as defined in § 22-22-7.2, felony stalking as defined in §§ 22-19A-2 and 22-19A-3, photographing a child in an obscene act, felony assault as defined in §§ 22-18-26 and 22-18-29, felony simple assault as defined in § 22-18-1, aggravated criminal battery of an unborn child as defined in § 22-18-1.3, aggravated battery of an infant as defined in § 22-18-1.4, assault with intent to cause serious permanent disfigurement as defined in § 22-18-1.5, commission of a felony while armed as defined in § 22-14-12, discharging a firearm at an occupied structure or motor vehicle as defined in § 22-14-20, discharging a firearm from a moving vehicle as defined in § 22-14-21, criminal pedophilia, threatening to commit a sexual offense as defined in § 22-22-45, abuse or neglect of a disabled adult as defined in § 22-46-2, and aggravated incest as defined in §§ 22-22A-3 and 22-22A-3.1:

Felony Convictions			
Felony Class	First	Second	Third
Nonviolent			
Class 6	.25	.30	.40
Class 5	.25	.35	.40
Class 4	.25	.35	.40
Class 3	.30	.40	.50
Class 2	.30	.40	.50
Class 1	.35	.40	.50
Class C	.35	.40	.50
Violent			
Class 6	.35	.45	.55
Class 5	.40	.50	.60
Class 4	.40	.50	.65
Class 3	.50	.60	.70

Class 2	.50	.65	.75
Class 1	.50	.65	.75
Class C	.50	.65	.75
Class B	1.0	1.0	1.0
Class A	1.0	1.0	1.0

The application of the violent or nonviolent column of the grid is based on whether the inmate's current sentence is for a violent or nonviolent crime. ~~Any~~ The department shall consider any prior felony ~~shall be considered~~ regardless of whether ~~it~~ the crime is violent or nonviolent when determining which percentage to apply to the inmate's parole date calculation. Each inmate shall serve at least sixty days prior to parole release. ~~Inmates~~ An inmate with a life ~~sentences are~~ sentence is not eligible for parole except as provided in §§ 24-15A-55 to 24-15A-68, inclusive. An initial parole date through the application of this grid may be applied to a life sentence only after the sentence is commuted to a term of years. A Class A or B felony commuted to a number of years shall be applied to the Class C violent column of the grid. An inmate convicted of a Class A or B felony who was a juvenile at the time of the offense and receives a sentence of less than life shall be applied to the Class C violent column of the grid.

For a crime committed on or after July 1, 2023, each inmate sentenced to a penitentiary term, except those under a sentence of life or death, or determined to be ineligible for parole as authorized in §§ 24-15A-32.1, section 1 of this Act, and section 2 of this Act, must have an initial parole date set by the department. The date must be calculated by applying the percentage indicated in the following grid to the full term of the sentence, minus any suspended time. Any of the following crimes, or any attempt to commit, a conspiracy to commit, or a solicitation to commit any of the following crimes is considered a violent crime for the purpose of setting an initial parole date: felony stalking as defined in §§ 22-19A-2 and 22-19A-3, felony assault as defined in §§ 22-18-26 and 22-18-29, felony simple assault as defined in § 22-18-1, discharging a firearm at an occupied structure or motor vehicle as defined in § 22-14-20, discharging a firearm from a moving vehicle as defined in § 22-14-21, threatening to commit a sexual offense as defined in § 22-22-45, abuse or neglect of a disabled adult as defined in § 22-46-2, and aggravated incest as defined in §§ 22-22A-3 and 22-22A-3.1:

Felony Convictions

Felony Class	First	Second	Third
Nonviolent			
Class 6	.25	.30	.40
Class 5	.25	.35	.40
Class 4	.25	.35	.40
Class 3	.30	.40	.50
Class 2	.30	.40	.50
Class 1	.35	.40	.50
Class C	.35	.40	.50
Violent			
Class 6	.35	.45	.55
Class 5	.40	.50	.60
Class 4	.40	.50	.65
Class 3	.50	.60	.70

Class 2	.50	.65	.75
Class 1	.50	.65	.75
Class C	.50	.65	.75
Class B	1.0	1.0	1.0
Class A	1.0	1.0	1.0
Section 1 of this Act	1.0	1.0	1.0
Section 2 of this Act	1.0–.85	1.0–.85	1.0–.85

The application of the violent or nonviolent column of the grid is based on whether the inmate's current sentence is for a violent or nonviolent crime. The department shall consider any prior felony regardless of whether the crime is violent or nonviolent when determining which percentage to apply to the inmate's parole date calculation. Each inmate shall serve at least sixty days prior to parole release. An inmate with a life sentence and an inmate who commits an offense as defined in section 1 of this Act is not eligible for parole except as provided in §§ 24-15A-55 to 24-15A-68, inclusive. An inmate who commits an offense as defined in section 2 of this Act is not eligible for parole except as provided in section 2 of this Act and §§ 24-15A-55 to 24-15A-68, inclusive. The provisions set forth in sections 1 and 2 of this Act apply to a life sentence that has been commuted to a term of years.

Signed March 20, 2023

Chapter 81

(Senate Bill 51)

An Act to revise certain provisions regarding the reimbursement of county expenses in detaining parole violators.

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

Section 1. That § 24-15-28 be AMENDED:

24-15-28. The state shall reimburse any county of this state for expenses the county incurs for the detention of a parolee pursuant to §§ 24-15-19 and 24-15-21. The reimbursement may not exceed ~~seventy~~ ninety-five dollars per day. Upon receipt of the bill, the state shall make reimbursement within thirty days. No county may be reimbursed by the state for costs incurred from detaining a parolee held for criminal charges unrelated to the parolee's current conviction and sentence.

Section 2. That § 24-15-29 be AMENDED:

24-15-29. In order to obtain reimbursement pursuant to § 24-15-28, the chair of the board of county commissioners of the county shall present a claim on a voucher to be approved by the secretary of corrections for detention expenses paid by the county, not to exceed ~~seventy~~ ninety-five dollars per day. When the voucher is presented to the state auditor, the state auditor shall examine it and if

the claim is just and valid, the state auditor shall issue a warrant for payment to be made from funds appropriated for that purpose, and the state treasurer shall then pay the sum to the treasurer of the county.

Signed March 20, 2023

Chapter 82

(Senate Bill 52)

An Act to update certain provisions regarding the Department of Corrections and the authority of the Secretary of Corrections.

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

Section 1. That § 1-7-1 be AMENDED:

1-7-1. The Governor shall possess the powers and perform the duties entailed upon him by the Constitution and by special provisions throughout this code and among others, but without limiting other prescriptions of his powers and duties, as follows:

(1) He shall supervise the official conduct of all executive and ministerial officers;

(2) He shall see that the laws of the state are faithfully and impartially executed;

(3) He shall make appointments and fill vacancies in the public offices as required by law;

(4) He is the sole official organ of communication between the government of this state and the government of any other state of the United States;

(5) He shall issue patents for land as required by law and prescribed by the provisions of this code;

(6) He may offer rewards, not exceeding one thousand dollars each, payable out of the general fund, for the apprehension of any convict who has escaped from ~~the penitentiary~~ a state correctional facility or for any person who has committed or is charged with the commission of an offense punishable with imprisonment for life;

(7) He is authorized to appoint a private secretary and to employ such clerks and stenographers as he shall deem necessary for the proper discharge of his official duties, each of whom shall serve during the pleasure of the Governor and receive such compensation as shall be provided by the Legislature;

(8) He shall have such other powers and must perform such other duties as are or may be devolved upon him by law.

Section 2. That § 1-15-1.12 be REPEALED:

~~The secretary of corrections may grant the warden of any adult correctional facility the same duties, responsibilities, and authority granted to the warden of the state penitentiary by state law for inmates at facilities under the warden's control.~~

Section 3. That § 1-15-36 be REPEALED:

~~The Department of Corrections shall promulgate rules pursuant to chapter 1-26 to administer a reinvestment program for the purposes of improving public safety and reducing recidivism. The reinvestment program is part of the local and endowment fund. The rules shall include the following:~~

~~(1) A calculation of the number of felony probation population as of fiscal year end. The Unified Judicial System will provide the necessary data on felony probationers to the Department of Corrections;~~

~~(2) A calculation of the five years, FY09 to FY13, inclusive, to determine how many felony probationers are under supervision in each county at fiscal year end. A trend line based on the prior growth in each county shall project growth based upon past performance;~~

~~(3) If the use of felony probation in a county has increased beyond the trend line calculated in subdivision (2) of this section, then the county will be compensated for additional felony probationers who are under supervision at fiscal year end. The first calculation of probationers beyond the trend line shall be on June 30, 2014, and the first payment shall be made on or about October 1, 2014;~~

~~(4) That a county's sheriff office shall receive one thousand dollars for each additional probationer beyond the trend line calculated in subdivisions (2) and (3) of this section;~~

~~(5) That in counties without a county jail, the sheriff shall receive an additional two hundred dollars per probationer above the trend line due to transportation costs;~~

~~(6) That the reinvestment fund shall be in existence until the fund is depleted; and~~

~~(7) That any probationer admitted to probation under a program described in § 16-22-8 is not included in the calculation performed in subdivision (2) of this section.~~

Section 4. That § 5-12-7 be AMENDED:

5-12-7. The purposes of this authority are:

(1) To build and otherwise provide hospital, housing, ~~penitentiary~~ correctional facilities, administrative, classroom, dining halls, fieldhouses, parking facilities, union buildings, library, recreational, laboratory, office, and similar facilities for use by the State of South Dakota;

(2) To serve the Legislature by making reports concerning the providing of such facilities; and

(3) To make, and undertake commitments to make, loans to farmers or ranchers who are participants in the United States Department of Agriculture Conservation Reserve Program.

Section 5. That § 7-12-23 be AMENDED:

7-12-23. If any person accused of a public offense is taken before a judge in chambers for the purpose of entering a plea of guilty~~,~~ and receives a ~~penitentiary~~ state incarceration sentence, the county where the alleged offense was committed shall reimburse the sheriff ~~shall be reimbursed~~ pursuant to §§ 7-12-21 and 7-12-22.

If a ~~penitentiary~~ state incarceration sentence is not imposed, the county where the alleged offense was committed shall reimburse the sheriff ~~shall be~~

~~reimbursed~~ for the actual expenses for conveying the person to and from the judge by the nearest traveled route. ~~This payment shall be made by the county where the alleged offense was committed.~~

Section 6. That § 16-22-16 be AMENDED:

16-22-16. If a probationer is sentenced to a term of imprisonment in ~~the~~ a state ~~penitentiary~~ correctional facility, the Unified Judicial System shall transfer the case history of the probationer including the results of a risk and needs assessment conducted on the probationer to the Department of Corrections.

Section 7. That § 19-19-516 be AMENDED:

19-19-516. The secretary of corrections, the warden of the ~~penitentiary~~ state correctional facility, ~~penitentiary~~ correctional facility staff, and Department of Corrections staff may not be examined as to communications made to them concerning an execution of an inmate under chapter 23A-27A. The privilege described in this section may be claimed by the secretary of corrections, the warden of the ~~penitentiary~~ state correctional facility, ~~penitentiary~~ correctional facility staff, Department of Corrections staff, or by any representative of any of the foregoing to be examined and is binding on all of them. However, the secretary of corrections and the warden of the ~~penitentiary~~ state correctional facility may personally waive the privilege described in this section.

Section 8. That § 21-27-9.2 be AMENDED:

21-27-9.2. The officer or person upon whom the writ of habeas corpus is served shall produce the body of the applicant before the court at the hearing of the cause of imprisonment or detainer. If the applicant is in the custody of a civil officer, the court or judge who granted the writ shall determine the expense of bringing the applicant to court, which shall be paid prior to the hearing. ~~Security shall~~ If remanded, security must be given to pay the charges for carrying ~~him~~ the applicant back~~, if he is remanded~~. If the applicant is confined in ~~the state penitentiary~~ a state correctional facility or state hospital, ~~an order shall be issued~~ the court shall issue an order commanding the sheriff of the county in which the application is made to take custody of the applicant during the pendency of any proceedings before the court and to transport the applicant from and return the applicant to ~~the state penitentiary~~ a state correctional facility or state hospital if ~~he~~ the applicant is not released.

Section 9. That § 22-1-4 be AMENDED:

22-1-4. Any crime is either a felony or a misdemeanor. A felony is a crime which is or may be punishable by imprisonment in ~~the~~ a state ~~penitentiary~~ correctional facility. Every other crime is a misdemeanor.

Section 10. That § 22-6-1 be AMENDED:

22-6-1. Except as otherwise provided by law, felonies are divided into the following nine classes which are distinguished from each other by the following maximum penalties which are authorized upon conviction:

(1) Class A felony: death or life imprisonment in ~~the~~ a state ~~penitentiary~~ correctional facility. A lesser sentence than death or life imprisonment may not be given for a Class A felony. In addition, a fine of fifty thousand dollars may be imposed;

(2) Class B felony: life imprisonment in ~~the~~ a state ~~penitentiary~~ correctional facility. A lesser sentence may not be given for a Class B felony. In

addition, a fine of fifty thousand dollars may be imposed;

(3) Class C felony: life imprisonment in ~~the~~ a state ~~penitentiary~~ correctional facility. In addition, a fine of fifty thousand dollars may be imposed;

(4) Class 1 felony: fifty years imprisonment in ~~the~~ a state ~~penitentiary~~ correctional facility. In addition, a fine of fifty thousand dollars may be imposed;

(5) Class 2 felony: twenty-five years imprisonment in ~~the~~ a state ~~penitentiary~~ correctional facility. In addition, a fine of fifty thousand dollars may be imposed;

(6) Class 3 felony: fifteen years imprisonment in ~~the~~ a state ~~penitentiary~~ correctional facility. In addition, a fine of thirty thousand dollars may be imposed;

(7) Class 4 felony: ten years imprisonment in ~~the~~ a state ~~penitentiary~~ correctional facility. In addition, a fine of twenty thousand dollars may be imposed;

(8) Class 5 felony: five years imprisonment in ~~the~~ a state ~~penitentiary~~ correctional facility. In addition, a fine of ten thousand dollars may be imposed; and

(9) Class 6 felony: two years imprisonment in ~~the~~ a state ~~penitentiary~~ correctional facility or a fine of four thousand dollars, or both.

If the defendant is under the age of eighteen years at the time of the offense and found guilty of a Class A, B, or C felony, the maximum sentence may be a term of years in ~~the~~ a state ~~penitentiary~~ correctional facility, and a fine of fifty thousand dollars may be imposed.

The court, in imposing sentence on a defendant who has been found guilty of a felony, shall order in addition to the sentence that is imposed pursuant to the provisions of this section, that the defendant make restitution to any victim in accordance with the provisions of chapter 23A-28.

Nothing in this section limits increased sentences for habitual criminals under §§ 22-7-7, 22-7-8, and 22-7-8.1.

Section 11. That § 22-6-11 be AMENDED:

22-6-11. The sentencing court shall sentence an offender convicted of a Class 5 or Class 6 felony, except those convicted under §§ 22-11A-2.1, 22-14-15, 22-18-1, 22-18-1.05, 22-18-26, 22-18-29, 22-19A-1, 22-19A-2, 22-19A-3, 22-19A-7, 22-19A-16, 22-22A-2, 22-22A-4, 22-24A-3, 22-22-24.3, subdivision 22-23-2(2), 22-24-1.2, 22-24B-2, 22-24B-12, 22-24B-12.1, 22-24B-23, 22-30A-46, 22-42-7, subdivision 24-2-14(1), 32-34-5, and any person ineligible for probation under § 23A-27-12, to a term of probation. If the offender is under the supervision of the Department of Corrections, the court shall order a fully suspended ~~penitentiary~~ state incarceration sentence pursuant to § 23A-27-18.4. The sentencing court may impose a sentence other than probation or a fully suspended ~~penitentiary~~ state incarceration sentence if the court finds aggravating circumstances exist that pose a significant risk to the public and require a departure from presumptive probation under this section. If a departure is made, the judge shall state on the record at the time of sentencing the aggravating circumstances and the same shall be stated in the dispositional order. Neither this section nor its application may be the basis for establishing a constitutionally protected liberty, property, or due process interest.

Section 12. That § 22-14-12 be AMENDED:

22-14-12. Any person who commits or attempts to commit any felony while armed with a firearm, including a machine gun or short shotgun, is guilty of a Class 2 felony for the first conviction. A second or subsequent conviction is a Class 1 felony. The sentence imposed for a first conviction under this section shall carry a minimum sentence of imprisonment in ~~the~~ a state ~~penitentiary~~ correctional facility of five years. In case of a second or subsequent conviction under this section such person shall be sentenced to a minimum imprisonment of ten years in ~~the penitentiary~~ a state correctional facility.

Any sentence imposed under this section shall be consecutive to any other sentences imposed for a violation of the principal felony. The court may not place on probation, suspend the execution of the sentence, or suspend the imposition of the sentence of any person convicted of a violation of this section.

Section 13. That § 22-22-1.3 be AMENDED:

22-22-1.3. Any person convicted of a felony violation as provided in subdivisions 22-24B-1(1) to (15), inclusive, and (19), (24) and (25), shall have included in the offender's presentence investigation report a psycho-sexual assessment including the following information: the offender's sexual history; an identification of precursor activities to sexual offending; intellectual, adaptive and academic functioning; social and emotional functioning; previous legal history; previous treatment history; victim selection and age; risk to the community; and treatment options recommended. If a presentence investigation is not prepared, the court shall order a psycho-sexual assessment which shall be made available to the court prior to sentencing. If the offender is sentenced to ~~the~~ a state ~~penitentiary~~ correctional facility, the psycho-sexual assessment shall be attached to the official statement and supplied to the Board of Pardons and Paroles and the warden.

Section 14. That § 22-42-2 be AMENDED:

22-42-2. Except as authorized by this chapter or chapter 34-20B, no person may manufacture, distribute, or dispense a substance listed in Schedules I or II; possess with intent to manufacture, distribute, or dispense a substance listed in Schedules I or II; create or distribute a counterfeit substance listed in Schedules I or II; or possess with intent to distribute a counterfeit substance listed in Schedules I or II. A violation of this section is a Class 4 felony. However, a violation of this section is a Class 3 felony if the person is in possession of three or more of the following:

(1) Three hundred dollars or more in cash;

(2) A firearm or other weapon pursuant to §§ 22-14-6, 22-14-15, 22-14-15.1, 22-14-15.3, and subdivision 22-1-2(8);

(3) Bulk materials used for the packaging of controlled substances;

(4) Materials used to manufacture a controlled substance including recipes, precursor chemicals, laboratory equipment, lighting, ventilating or power generating equipment; or

(5) Drug transaction records or customer lists.

The distribution of a substance listed in Schedules I or II to a minor is a Class 2 felony. A first conviction under this section shall be punished by a mandatory sentence in ~~the~~ a state ~~penitentiary~~ correctional facility of at least one year, which sentence may not be suspended. Probation, suspended imposition of sentence, or suspended execution of sentence may not form the basis for reducing

the mandatory time of incarceration required by this section. A second or subsequent conviction under this section shall be punished by a mandatory sentence in ~~the~~ a state ~~penitentiary~~ correctional facility of at least ten years, which sentence may not be suspended. Probation, suspended imposition of sentence, or suspended execution of sentence may not form the basis for reducing the mandatory time of incarceration required by this section. However, a first conviction for distribution to a minor under this section shall be punished by a mandatory sentence in ~~the~~ a state ~~penitentiary~~ correctional facility of at least five years, which sentence may not be suspended. Probation, suspended imposition of sentence, or suspended execution of sentence may not form the basis for reducing the mandatory time of incarceration required by this section. A second or subsequent conviction for distribution to a minor under this section shall be punished by a mandatory sentence in ~~the~~ a state ~~penitentiary~~ correctional facility of at least fifteen years, which sentence may not be suspended. Probation, suspended imposition of sentence, or suspended execution of sentence, may not form the basis for reducing the mandatory time of incarceration required by this section.

Any conviction for, or plea of guilty to, an offense in another state which, if committed in this state, would be a violation of this section, and occurring within fifteen years prior to the date of the violation being charged, must be used to determine if the violation being charged is a second or subsequent offense.

Any person who, for consideration, intentionally distributes any controlled substance or counterfeit substance in violation of this section and another person dies as a direct result of using that substance, the sentence for the principal felony shall be enhanced by increasing the class of the principal felony two levels. The enhancement may not exceed the sentence for a Class C felony.

A civil penalty may be imposed, in addition to any criminal penalty, upon a conviction of a violation of this section not to exceed ten thousand dollars. A conviction for the purposes of the mandatory sentence provisions of this chapter is the acceptance by a court of any plea, other than not guilty, including nolo contendere, or a finding of guilt by a jury or court.

Section 15. That § 22-42-3 be AMENDED:

22-42-3. Except as authorized by this chapter or chapter 34-20B, no person may manufacture, distribute, or dispense a controlled drug or substance listed in Schedule III; possess with intent to manufacture, distribute, or dispense a substance listed in Schedule III; create or distribute a counterfeit substance listed in Schedule III; or possess with intent to distribute a counterfeit substance listed in Schedule III. A violation of this section is a Class 5 felony. However, the distribution of a substance listed in Schedule III to a minor is a Class 3 felony. A first conviction under this section shall be punished by a mandatory sentence in ~~the~~ a state ~~penitentiary~~ correctional facility or county jail of at least thirty days, which sentence may not be suspended. A second or subsequent conviction under this section shall be punished by a mandatory ~~penitentiary~~ state correctional facility or county jail sentence of at least one year, which sentence may not be suspended. However, a first conviction for distribution to a minor under this section shall be punished by a mandatory sentence in ~~the~~ a state ~~penitentiary~~ correctional facility or county jail of at least ninety days, which sentence may not be suspended. A second or subsequent conviction for distribution to a minor under this section shall be punished by a mandatory sentence in ~~the~~ a state ~~penitentiary~~ correctional facility of at least two years, which sentence may not be suspended. A civil penalty may be imposed, in addition to any criminal penalty, upon a conviction of a violation of this section not to exceed ten thousand dollars.

Section 16. That § 22-42-4 be AMENDED:

22-42-4. Except as authorized by this chapter or chapter 34-20B, no person may manufacture, distribute, or dispense a controlled drug or substance listed in Schedule IV; possess with intent to manufacture, distribute, or dispense a substance listed in Schedule IV; create or distribute a counterfeit substance listed in Schedule IV; or possess with intent to distribute a counterfeit substance listed in Schedule IV. A violation of this section is a Class 6 felony. However, the distribution of a substance listed in Schedule IV to a minor is a Class 4 felony. A first conviction under this section shall be punished by a mandatory sentence in ~~the~~ a state ~~penitentiary~~ correctional facility or county jail of at least thirty days, which sentence may not be suspended. A second or subsequent conviction under this section shall be punished by a mandatory ~~penitentiary~~ state correctional facility or county jail sentence of at least one year, which sentence may not be suspended. A civil penalty may be imposed, in addition to any criminal penalty, upon a conviction of a violation of this section not to exceed ten thousand dollars. Notwithstanding any other provision of this section, a violation of this section with respect to distribution of Flunitrazepam to a minor is a Class 4 felony, but in all other cases under this section is a Class 5 felony.

Section 17. That § 22-42-4.3 be AMENDED:

22-42-4.3. Except as authorized by this section or chapter 34-20B, no person may manufacture, distribute, or dispense more than five grams of methamphetamine, a methamphetamine analog or immediate precursor; possess with intent to manufacture, distribute, or dispense methamphetamine, a methamphetamine analog or immediate precursor; create or distribute a counterfeit of methamphetamine, a methamphetamine analog or immediate precursor; or possess with intent to distribute a counterfeit of methamphetamine, a methamphetamine analog or immediate precursor. A violation of this section is a Class 3 felony. However, a violation of this section is a Class 2 felony if the person is in possession of three or more of the following:

(1) Three hundred dollars or more in cash;

(2) A firearm, or other weapon pursuant to §§ 22-14-6, 22-14-15, 22-14-15.1, 22-14-15.3, and subdivision 22-1-2(8);

(3) Bulk materials used for the packaging of methamphetamine;

(4) Materials used to manufacture methamphetamine including recipes, precursor chemicals, laboratory equipment, lighting, ventilating or power generating equipment; or

(5) Drug transaction records or customer lists.

A first conviction under this section shall be punished by a mandatory sentence in ~~the~~ a state ~~penitentiary~~ correctional facility of at least one year, which sentence may not be suspended. A second or subsequent conviction under this section shall be punished by a mandatory sentence in ~~the~~ a state ~~penitentiary~~ correctional facility of at least ten years, which sentence may not be suspended.

The manufacture, distribution, or dispensing of methamphetamine, a methamphetamine analog or immediate precursor to a minor is a Class 1 felony. A first conviction for distribution to a minor under this section shall be punished by a mandatory sentence in ~~the~~ a state ~~penitentiary~~ correctional facility of at least five years, which sentence may not be suspended. A second or subsequent conviction for distribution to a minor under this section shall be punished by a mandatory sentence in ~~the~~ a state ~~penitentiary~~ correctional facility of at least fifteen years, which sentence may not be suspended.

Probation, suspended imposition of sentence, or suspended execution of sentence, may not form the basis for reducing the mandatory time of incarceration required by this section.

A civil penalty may be imposed, in addition to any criminal penalty, upon a conviction of a violation of this section not to exceed ten thousand dollars. A conviction for the purposes of the mandatory sentence provisions of this chapter is the acceptance by a court of any plea, other than not guilty, including nolo contendere, or a finding of guilt by a jury or court.

Section 18. That § 22-42-7 be AMENDED:

22-42-7. The distribution, or possession with intent to distribute, of less than one-half ounce of marijuana without consideration is a Class 1 misdemeanor; otherwise, the distribution, or possession with intent to distribute, of one ounce or less of marijuana is a Class 6 felony. The distribution, or possession with intent to distribute, of more than one ounce but less than one-half pound of marijuana is a Class 5 felony. The distribution, or possession with intent to distribute, of one-half pound but less than one pound of marijuana is a Class 4 felony. The distribution, or possession with intent to distribute, of one pound or more of marijuana is a Class 3 felony. The distribution, or possession with intent to distribute, of less than one-half ounce of marijuana to a minor without consideration is a Class 6 felony; otherwise, the distribution, or possession with intent to distribute, of one ounce or less of marijuana to a minor is a Class 5 felony. The distribution, or possession with intent to distribute, of more than one ounce but less than one-half pound of marijuana to a minor is a Class 4 felony. The distribution, or possession with intent to distribute, of one-half pound but less than one pound of marijuana to a minor is a Class 3 felony. The distribution, or possession with intent to distribute, of one pound or more of marijuana to a minor is a Class 2 felony. A first conviction of a felony under this section shall be punished by a mandatory sentence in ~~the~~ a state ~~penitentiary~~ correctional facility or county jail of at least thirty days, which sentence may not be suspended. A second or subsequent conviction of a felony under this section shall be punished by a mandatory sentence of at least one year. Conviction of a Class 1 misdemeanor under this section shall be punished by a mandatory sentence in county jail of not less than fifteen days, which sentence may not be suspended. A civil penalty, not to exceed ten thousand dollars, may be imposed, in addition to any criminal penalty, upon a conviction of a felony violation of this section.

Section 19. That § 22-42-19 be AMENDED:

22-42-19. Any person who commits a violation of § 22-42-2, 22-42-3, or 22-42-4, or a felony violation of § 22-42-7, if such activity has taken place:

(1) In, on, or within one thousand feet of real property comprising a public or private elementary or secondary school or a playground; or

(2) In, on, or within five hundred feet of real property comprising a public or private youth center, public swimming pool, or video arcade facility; is guilty of a Class 4 felony. The sentence imposed for a conviction under this section carries a minimum sentence of imprisonment in ~~the~~ a state ~~penitentiary~~ correctional facility of five years. Any sentence imposed under this section shall be consecutive to any other sentence imposed for the principal felony. The court may not place on probation, suspend the execution of the sentence, or suspend the imposition of the sentence of any person convicted of a violation of this section. However, the sentencing court may impose a sentence other than that specified in this section if the court finds that mitigating circumstances exist which require a departure from the mandatory sentence provided for in this section. The

court's finding of mitigating circumstances allowed by this section and the factual basis relied upon by the court shall be in writing.

It is not a defense to the provisions of this section that the defendant did not know the distance involved. It is not a defense to the provisions of this section that school was not in session.

Section 20. That § 23-5-8 be AMENDED:

23-5-8. The warden of the ~~penitentiary~~ state correctional facility shall furnish photographs, fingerprints, and other identifying information of all inmates received at such institution and shall transmit the same to the Division of Criminal Investigation.

Section 21. That § 23A-7-9 be AMENDED:

23A-7-9. If a plea agreement has been reached by the parties, the court shall, on the record, require the disclosure of the agreement in open court, or on a showing of good cause, in chambers, at the time the plea is offered. The prosecuting attorney shall disclose on the record any comments on the plea agreement made by the victim, or his designee, of the defendant's crime to the prosecuting attorney. Thereupon the court may accept or reject the agreement, or may defer its decision as to the acceptance or rejection until there has been an opportunity to consider the presentence report. If the court accepts a plea agreement involving any felony charge, the prosecuting attorney shall file a brief written report, which includes the terms of the plea agreement and the ultimate reasons therefor, with the division of criminal investigation and, if the defendant is incarcerated in ~~the~~ a state ~~penitentiary~~ correctional facility, also with the warden thereof.

Section 22. That § 23A-27-1.2 be AMENDED:

23A-27-1.2. If a reduction of a previously imposed sentence requiring time to be served in ~~the penitentiary~~ a state correctional facility is proposed for consideration, the state's attorney in the county where the offense was committed shall notify the victim, at the victim's last known address, of the hearing. Upon request to the court by a victim and before reducing any sentence, the victim, in the discretion of the court, may address the court concerning the emotional, physical, and monetary impact of the crime upon the victim and may comment upon the proposed reduction of the sentence.

The defendant may respond to the victim's statements orally or by presentation of evidence and may be granted a reasonable continuance to refute any inaccurate or false charges or statements.

For the purpose of this section the term "victim" is defined as in § 23A-27-1.1.

Section 23. That § 23A-27-4 be AMENDED:

23A-27-4. In felony and Class 1 misdemeanor cases, the judgment of conviction shall set forth the plea, the verdict or findings, and the adjudication and sentence. If the judgment is for imprisonment in ~~the~~ a state ~~penitentiary~~ correctional facility, the judgment of conviction shall include the defendant's name, the county of conviction, the judge, the prosecuting attorney, the defense attorney, the docket number, the South Dakota Codified Law citation of the crime, any crime qualifier and any habitual offender enhancement, the date of the offense, date of conviction, date of sentence, the sentence term, any suspended time, any jail time credit granted and, in the case of multiple crimes, if the sentences are to be served concurrently or consecutively. In addition, the

judgment of conviction involving a sentence to ~~the~~ a state ~~penitentiary~~ correctional facility shall indicate if the ~~penitentiary~~ state incarceration term is a condition of a suspended imposition or execution of sentence or condition of a term of probation as allowed under § 23A-27-18.1. In the case of multiple convictions arising from different transactions, a separate judgment of conviction shall be entered for each conviction. If a defendant is found not guilty or for any other reason is entitled to be discharged, the judgment therefor shall be entered forthwith. Judgments of conviction shall be signed by the judge and filed with the clerk.

The term, crime qualifier, as used in this section means the offenses of accessory to a crime pursuant to § 22-3-5; aiding, abetting, or advising in planning or committing a crime pursuant to § 22-3-3; an attempt to commit a crime pursuant to § 22-4-1; conspiracy to commit an offense pursuant to § 22-3-8; or criminal solicitation pursuant to § 22-4A-1.

Section 24. That § 23A-27-10 be AMENDED:

23A-27-10. ~~Any presentence investigation report made available to a~~ Immediately following the imposition of sentence or the granting of probation, the defendant or the defendant's counsel and the prosecuting attorney shall ~~be returned~~ return to the court services officer ~~immediately following the imposition of sentence or the granting of probation~~ any presentence investigation report made available to the parties. When a person is sentenced to ~~the penitentiary,~~ a state correctional facility, the court shall file a copy of the person's presentence report ~~shall be filed~~ with the Board of Pardons and Paroles and the ~~penitentiary~~ state correctional facility. ~~Penitentiary~~ Department of Corrections officials and the Board of Pardons and Paroles may utilize information contained in the report, including any pre-plea report being used as the presentence investigation report, for the development of a rehabilitation program for the individual. If a person is sentenced to jail on felony charges, the court shall file a copy of the presentence report ~~shall be filed~~ with the sheriff or administrator of the jail. Jail officials may utilize information contained in the report, including any pre-plea report being used as the presentence investigation report for the safety and protection of the inmate, rehabilitation programs for the inmate, and assignments to various programs offered by the jail. However, the contents of the reports may not be disclosed to the individual without a written order from the sentencing judge or the sentencing judge's successor.

Section 25. That § 23A-27-18 be AMENDED:

23A-27-18. Upon conviction, the sentencing court may suspend the execution of any sentence imposed during good behavior, subject to such conditions or restitutions as the court may impose. The suspension order or judgment can be made only by the court in which the conviction occurred. A defendant given a suspended execution of sentence shall remain under the jurisdiction of the court. A ~~penitentiary~~ state incarceration sentence may be imposed as a condition of a suspended execution of sentence as authorized in § 23A-27-18.1.

Section 26. That § 23A-27-18.1 be AMENDED:

23A-27-18.1. The conditions of probation imposed pursuant to § 23A-27-12 or 23A-27-13 or the conditions of suspension of execution imposed pursuant to § 23A-27-18, may include the requirement that the defendant be imprisoned in the county jail for no more than one hundred eighty days, except as otherwise specified in this section, or in ~~the~~ a state ~~penitentiary~~ correctional facility for no more than one hundred eighty days or the sentence which was imposed or which may be imposed by law, whichever is less. However, for persons sentenced

pursuant to § 32-23-4.6, the conditions of probation imposed pursuant to § 23A-27-12 or 23A-27-13 or the conditions of suspension of execution imposed pursuant to § 23A-27-18, may include the requirement that the defendant be imprisoned in the county jail for a specific period not exceeding three hundred sixty-five days. The imprisonment may be further restricted to certain days specified by the court as part of such conditions. The required period of imprisonment for a county jail or state ~~penitentiary~~ incarceration term should not exceed sixty consecutive days to ensure the court retains authority to impose additional days of imprisonment, if necessary, during the term of supervision pursuant to § 16-22-13. The court retains jurisdiction to raise or lower the required period of imprisonment within the sentence otherwise allowed by law. Any such imprisonment, either in the county jail or state ~~penitentiary~~ correctional facility, shall be credited toward any incarceration imposed upon any subsequent revocation of a suspended imposition or execution of sentence. During any such imprisonment the defendant shall be subject to all policies, rules, and regulations of the county jail or state ~~penitentiary~~ correctional facility.

Section 27. That § 23A-27-18.2 be AMENDED:

23A-27-18.2. A person who is sentenced to a county jail as a condition of suspended imposition of sentence, suspended sentence, or suspended execution of sentence, is under the supervision of the court services officer assigned by the court having jurisdiction of the person. A person sentenced to ~~the state penitentiary~~ a state correctional facility as a condition of suspended imposition of sentence or suspended execution of sentence is under the supervision of the court services officer assigned by the court having jurisdiction of the person upon that person's release from the state ~~penitentiary~~ correctional facility after completion of the ~~penitentiary~~ state incarceration term imposed pursuant to § 23A-27-18.1.

Section 28. That § 23A-27-18.4 be AMENDED:

23A-27-18.4. Upon conviction, the sentencing court may suspend any portion of a ~~penitentiary~~ state incarceration sentence subject to conditions or restrictions as the court may impose. The suspension order or judgment can be made only in the court in which the conviction occurred. A defendant with a partially suspended ~~penitentiary~~ state incarceration sentence is under the supervision of the Department of Corrections and the Board of Pardons and Paroles. The board is charged with the responsibility for enforcing the conditions imposed by the sentencing judge, and the board retains jurisdiction to revoke the suspended portion of the sentence for violation of the terms of parole or the terms of the suspension.

A defendant with an entirely suspended ~~penitentiary~~ state incarceration sentence is under the supervision of the sentencing court unless the entirely suspended ~~penitentiary~~ state incarceration sentence is concurrent or consecutive to an additional ~~penitentiary~~ state incarceration sentence in which case, the defendant is under the supervision of the Board of Pardons and Paroles.

Section 29. That § 23A-27-25.7 be AMENDED:

23A-27-25.7. If the sentencing court orders a defendant to ~~the~~ a state ~~penitentiary~~ correctional facility and the defendant objects at sentencing to the fines or costs imposed as a portion of the punishment on the basis the defendant will be ineligible to receive a wage for work performed while incarcerated because the defendant does not have a verifiable Social Security number, the defendant is entitled to a hearing at which the court shall determine whether there is good cause to reduce the fines or costs pursuant to § 23A-27-25.8 by a preponderance of the evidence. In making this determination, the court shall consider the

defendant's employment circumstances, potential for employment and vocational training, financial condition, and other factors as may be appropriate.

Section 30. That § 23A-27-30 be AMENDED:

23A-27-30. If the judgment is for imprisonment in ~~the~~ a state ~~penitentiary~~ correctional facility, the sheriff of the county shall, upon receipt of a certified copy of the judgment, take and deliver the defendant to the warden of the state ~~penitentiary~~ correctional facility. He shall also deliver to the warden or other proper officer a certified copy of the judgment containing the information required pursuant to § 23A-27-4.

Section 31. That § 23A-27-32 be AMENDED:

23A-27-32. Whenever any person is convicted of a felony, the judge before whom such person is convicted shall furnish the Board of Pardons and Parole with a plan of restitution pursuant to chapter 23A-28. The state's attorney of the county in which the person is convicted shall furnish the warden of the ~~penitentiary~~ state correctional facility with an official statement of the facts and circumstances constituting the crime whereof the convict has been convicted, with all the information accessible to them in regard to the career of the convict prior to the commission of the crime of which he is convicted, relating to the habits, associates, disposition, and reputation of such convict and any other facts or circumstances which may tend to throw any light upon the question as to whether he is capable of again becoming a law-abiding citizen. If a presentence investigation report has been prepared by a court services officer and contains all information otherwise provided by an official statement, ~~it~~ the court services officer shall ~~be furnished~~ furnish the report in lieu of an official statement.

Section 32. That § 23A-27-33 be AMENDED:

23A-27-33. It shall be the duty of the court reporter, when directed by the judge, to write the official statements of the judge and state's attorney referred to in § 23A-27-32.

It shall be the duty of the clerk of the court to cause such official statements to be attached to the certified copy of the judgment of conviction to be delivered by the sheriff to the warden of the ~~penitentiary~~ state correctional facility at the time of the delivery of the convict.

Section 33. That § 23A-27-35 be AMENDED:

23A-27-35. A sentence of imprisonment in ~~the~~ a state ~~penitentiary~~ correctional facility for any term suspends the right of the person so sentenced to hold public office, to become a candidate for public office, and to serve on a jury. Any such person so sentenced forfeits all public offices and all private trusts, authority, or power during the term of such imprisonment. Any person who is serving a term in any ~~penitentiary~~ state correctional facility shall be a competent witness in any action now pending or hereafter commenced in the courts of this state, and the person's deposition may be taken in the same manner prescribed by statute or rule relating to taking of depositions. After a suspension of sentence pursuant to § 23A-27-18, upon the termination of the time of the original sentence or the time extended by order of the court, a defendant's rights withheld by this section are restored. However, the voting rights of any person sentenced to imprisonment in ~~the~~ a state ~~penitentiary~~ correctional facility shall be governed by Title 12.

Section 34. That § 23A-27-38 be AMENDED:

23A-27-38. If a defendant is found "guilty but mentally ill" or enters that plea and the plea is accepted by the court, the court shall impose any sentence which could be imposed upon a defendant pleading or found guilty of the same charge. If the defendant is sentenced to ~~the~~ a state ~~penitentiary~~ correctional facility, he shall undergo further examination and may be given the treatment that is psychiatrically indicated for his mental illness. If treatment is available, it may be provided through facilities under the jurisdiction of the Department of Social Services. The secretary of corrections may transfer the defendant from the ~~penitentiary~~ state correctional facility to other facilities under the jurisdiction of the Department of Social Services, with the consent of the secretary of social services, and return the defendant to the ~~penitentiary~~ state correctional facility after completion of treatment for the balance of the defendant's sentence.

Section 35. That § 23A-27A-15 be AMENDED:

23A-27A-15. Whenever judgment of death is rendered, the judge shall also sign and provide to the Governor, the secretary of corrections, and the sheriff of the county where the crime was committed~~, and the warden~~ a warrant of death sentence and execution, along with a brief statement of the facts and circumstances of the case, duly attested by the clerk under the seal of the court. The warrant of death sentence and execution shall describe the conviction and sentence and appoint the week within which the sentence shall be executed. The warrant of death sentence and execution shall be directed to the ~~warden of the state penitentiary at Sioux Falls~~ secretary of corrections, commanding the ~~warden~~ secretary of corrections or a designee of the secretary to execute the sentence on some day within the week appointed.

Section 36. That § 23A-27A-16 be AMENDED:

23A-27A-16. Within ten days after the issuing of a warrant of death sentence and execution under § 23A-27A-15, the sheriff shall deliver the defendant together with certified copies of the warrant of death sentence and execution and the judgment of conviction to the ~~penitentiary~~ state correctional facility.

Section 37. That § 23A-27A-17 be AMENDED:

23A-27A-17. The week so appointed ~~shall be not~~ may not be less than six months ~~nor~~ or more than eight months after the date of judgment of death. The time of execution within the week ~~shall be left to~~ is in the discretion of the ~~warden~~ secretary of corrections to whom the warrant is directed. The ~~warden~~ secretary shall cause the execution to be performed on some day of such week. Not less than forty-eight hours prior to the execution, the ~~warden~~ secretary shall make a public announcement of the scheduled day and hour of the execution.

Section 38. That § 23A-27A-21 be AMENDED:

23A-27A-21. No judge, officer, commission, or board, other than the Governor, may reprieve or suspend the execution of a judgment of death. However, the ~~warden or deputy warden of the penitentiary~~ secretary of corrections is authorized so to do in a case and in the manner prescribed in this chapter or as provided in §§ 23A-27A-24 and 23A-27A-28. This section does not apply to a stay of proceedings upon appeal or to the issuance of a writ of habeas corpus, certiorari, or other original remedial writ of the Supreme Court.

Section 39. That § 23A-27A-31.1 be REPEALED:

~~From the time of delivery to the penitentiary until the infliction of the punishment of death upon the defendant, unless lawfully discharged from such imprisonment, the defendant shall be segregated from other inmates at the penitentiary. No other person may be allowed access to the defendant without an order of the trial court except penitentiary staff, Department of Corrections staff, the defendant's counsel, members of the clergy if requested by the defendant, and members of the defendant's family. Members of the clergy and members of the defendant's family are subject to approval by the warden before being allowed access to the defendant.~~

Section 40. That § 23A-27A-32 be AMENDED:

23A-27A-32. The punishment of death ~~shall~~ must be inflicted within the walls of some building at ~~the~~ a state ~~penitentiary~~ correctional facility. The punishment of death ~~shall~~ must be inflicted by the intravenous injection of a substance or substances in a lethal quantity. The ~~warden, subject to the approval of the secretary of corrections,~~ secretary of corrections or a designee of the secretary shall determine the substances and the quantity of substances used for the punishment of death. ~~An~~ Only persons trained to administer the injection, selected by the secretary or a designee of the secretary, may perform an execution carried out by intravenous injection ~~shall be performed by persons trained to administer the injection who are selected by the warden and approved by the secretary of corrections~~. The persons administering the intravenous injection need not be physicians, registered nurses, licensed practical nurses, or other medical professionals licensed or registered under the laws of this or any other state. Any infliction of the punishment of death by intravenous injection of a substance or substances in the manner required by this section may not be construed to be the practice of medicine. Any pharmacist or pharmaceutical supplier is authorized to dispense to the ~~warden~~ secretary or a designee of the secretary the substance or substances used to inflict the punishment of death without prescription, for carrying out the provisions of this section, notwithstanding any other provision of law.

Section 41. That § 23A-27A-32.1 be AMENDED:

23A-27A-32.1. Any person convicted of a capital offense or sentenced to death prior to July 1, 2007 may choose to be executed in the manner provided in § 23A-27A-32 or in the manner provided by South Dakota law at the time of the person's conviction or sentence. The person shall choose by indicating in writing to the ~~warden~~ secretary of corrections not less than seven days prior to the scheduled week of execution the manner of execution chosen. If the person fails or refuses to choose in the time provided under this section, then the person shall be executed as provided in § 23A-27A-32.

Section 42. That § 23A-27A-33 be AMENDED:

23A-27A-33. The Department of Corrections shall arrange for and provide a proper and suitable place at ~~the~~ a state ~~penitentiary~~ correctional facility for the custody of persons awaiting sentence of death and for the execution of the death sentence together with any and all proper equipment and appliances for the infliction of such punishment.

Section 43. That § 23A-27A-34 be AMENDED:

23A-27A-34. The ~~warden of the penitentiary~~ secretary of corrections shall request, by at least two days' previous notice, the presence of the attorney

general, the trial judge before whom the conviction was had or the judge's successor in office, the state's attorney and sheriff of the county where the crime was committed, representatives of the victim, at least one member of the news media, and a number of reputable adult citizens to be determined by the ~~warden~~ secretary. All witnesses and persons present at an execution are subject to approval by the ~~warden~~ secretary.

Section 44. That § 23A-27A-34.1 be AMENDED:

23A-27A-34.1. The ~~warden~~ secretary of corrections or a designee of the secretary shall arrange for the attendance of a person trained to examine the defendant and pronounce death and for the attendance of such ~~penitentiary~~ correctional facility staff, Department of Corrections staff, and law enforcement officers as deemed necessary to perform the execution and maintain security.

Section 45. That § 23A-27A-37.1 be REPEALED:

~~In case of disability of the warden to whom the warrant of death sentence and execution is directed, the secretary of corrections shall appoint the deputy warden or such other officer of the Department of Corrections as may be necessary to carry out the warrant of death sentence and execution and to perform all other duties imposed upon the warden by this chapter.~~

Section 46. That § 23A-27A-39 be AMENDED:

23A-27A-39. After the postmortem examination and any autopsy, the body of the defendant, unless claimed by some relative, shall be interred in a cemetery within the county where the ~~penitentiary~~ state correctional facility is situated.

Section 47. That § 23A-28-3 be AMENDED:

23A-28-3. If the sentencing court orders the defendant to the county jail, suspended imposition of sentence, suspended sentence, or probation, the court may require as a condition that the defendant, in cooperation with the court services officer assigned to the defendant, promptly prepare a plan of restitution, including the name and address of each victim, a specific amount of restitution to each victim, and a schedule of restitution payments. If the defendant is presently unable to make any restitution, but there is a reasonable possibility that the defendant may be able to do so at some time during the defendant's probation period, the plan of restitution shall also state the conditions under which or the event after which the defendant will make restitution. If the defendant believes that no person suffered pecuniary damages as a result of the defendant's criminal activities, the defendant shall so state. If the defendant contests the amount of restitution recommended by the court services officer, the defendant is entitled to a hearing at which the court shall determine the amount. If the sentencing court orders the defendant to ~~the~~ a state ~~penitentiary~~ correctional facility and does not suspend the sentence, the court shall set forth in the judgment the names and specific amount of restitution owed each victim. The Department of Corrections shall establish the collection schedule for court-ordered restitution while the defendant is in the ~~penitentiary~~ state correctional facility and on parole. The Board of Pardons and Paroles shall require, as a condition of parole, that the defendant pay restitution ordered by the court.

Section 48. That § 23A-28-6 be AMENDED:

23A-28-6. The court services officer shall provide each known victim a copy of the court's order approving or modifying the plan of restitution for any

defendant not serving his sentence in ~~the~~ a state ~~penitentiary~~ correctional facility. The executive director of the Board of Pardons and Paroles shall provide each known victim a copy of the schedule of restitution for each inmate placed on parole. If the victim is not satisfied with the approved or modified plan of restitution, the victim's exclusive remedy is a civil action against the defendant, which, if successful, may include attorney's fees.

Section 49. That § 23A-43-31 be AMENDED:

23A-43-31. Any person who, having been released pursuant to this chapter, fails to appear before any court or judicial officer as required or fails to comply with the provisions of § 25-10-41 shall, subject to the provisions of this title, forfeit any security which was given or pledged for such person's release and, in addition, shall:

(1) If such person was released in connection with a charge of a felony, an alleged felony violation of § 32-23-1, or fails to report for a jail or ~~penitentiary~~ state correctional facility sentence for any offense, be guilty of a Class 6 felony;

(2) If such person was released in connection with a charge of a misdemeanor, be guilty of a Class 1 misdemeanor; or

(3) If such person was released for appearance as a material witness, be guilty of a Class 1 misdemeanor.

Section 50. That § 24-1-1 be AMENDED:

24-1-1. The ~~state penitentiary~~ South Dakota State Penitentiary, Mike Durfee State Prison, South Dakota Women's Prison, Jameson Prison, Pierre Minimum Center, Rapid City Minimum Center, Yankton Minimum Center, and Sioux Falls Minimum Center ~~is the general prison~~ are the correctional facilities of this state for the punishment and reformation of offenders to which such offenders as may be committed, according to law, by any court of this state, shall be confined, employed, and governed in the manner provided by law.

The secretary of corrections shall designate each facility operated by the department with a security level as follows:

(1) A level I facility must have designated boundaries but need not have perimeter fencing. An inmate classified as minimum may be incarcerated in a level I facility, but generally an inmate of a higher classification may not be incarcerated in a level I facility.

(2) A level II facility must have designated boundaries with a single or double perimeter fencing. The perimeter of a level II facility must be patrolled periodically. An inmate classified as minimum restrictive or minimum may be incarcerated in a level II facility, but generally an inmate of a higher classification may not be incarcerated in a level II facility.

(3) A level III facility generally must have a wall or double perimeter fencing with razor wire and detection devices. A level III facility generally must use controlled sally ports. The perimeter of a level III facility must be continuously patrolled. An appropriately designated close classified inmate, an inmate classified as medium, or an inmate of a lower classification level may be incarcerated in a level III facility, but generally an inmate of a higher classification may not be incarcerated in a level III facility.

(4) A level IV facility generally must have a wall or double perimeter fencing with razor wire and detection devices. A level IV facility generally must

use controlled sally ports. The perimeter of a level IV facility must be continuously patrolled. An inmate designated close classified or an inmate of a lower classification level may be incarcerated in a level IV facility, but generally an inmate of a higher classification may not be incarcerated in a level IV facility on a long-term basis.

(5) A level V facility is the highest security level and may incarcerate an inmate of any classification level. A level V facility must have double perimeter fencing with razor wire and detection devices, or equivalent security architecture. A level V facility must use controlled sally ports. The perimeter of a level V facility must be continuously patrolled.

Section 51. That § 24-1-4 be AMENDED:

24-1-4. ~~The state penitentiary~~ Each state correctional facility and its ancillary facilities ~~shall be~~ is under the direction and government of the Department of Corrections.

Section 52. That § 24-1-6 be AMENDED:

24-1-6. The secretary of corrections shall appoint a warden ~~shall be appointed by the secretary of corrections,~~ for each correctional facility under the direction and government of the department. ~~and the~~ The secretary may remove ~~the~~ a warden at the secretary's discretion.

Section 53. That § 24-1-8 be AMENDED:

24-1-8. The ~~warden of the penitentiary shall receive a salary to be fixed by the secretary of corrections~~ secretary of corrections shall fix a salary for the warden of each correction facility, any part of which may be paid out of the prison industries revolving fund.

Section 54. That § 24-1-11 be AMENDED:

24-1-11. All officers and persons employed by the ~~state penitentiary~~ Department of Corrections shall perform such duties as may be required of them by the ~~warden~~ secretary, in conformity with law and the rules, policies and procedures of the ~~penitentiary~~ department. The Department of Corrections may promulgate rules pursuant to chapter 1-26 establishing standards of personal conduct for ~~penitentiary~~ correctional officers and employees. The standards shall be consistent with those standards of personal conduct required of law enforcement personnel.

Section 55. That § 24-1-12 be AMENDED:

24-1-12. All process ~~to be~~ served within the precincts of ~~the state penitentiary~~ a state correctional facility, either upon ~~inmates~~ an inmate or upon ~~persons or officers~~ a person or officer employed within the precincts thereof, except upon the warden, ~~shall~~ must be served and returned by the warden, personally or by a designee. All officers and employees of ~~the penitentiary~~ a state correctional facility are exempt from serving upon juries in any state court.

Section 56. That § 24-1-13 be AMENDED:

24-1-13. The ~~warden, under the supervision of the~~ secretary of corrections~~,~~ shall have charge and custody of ~~the state penitentiary~~ each state correctional facility, with all lands, buildings, furniture, tools, equipment, implements, stock and provisions, and all other property pertaining thereto or within the precincts thereof.

Section 57. That § 24-1-16 be AMENDED:

24-1-16. The ~~warden~~ secretary of corrections may make ~~all purchases for the penitentiary~~ any purchase for a state correctional facility on such conditions and in such manner as in the warden's opinion ~~will~~ best ~~promote~~ promotes the interest of the state.

Section 58. That § 24-1-25 be AMENDED:

24-1-25. No person employed by the ~~penitentiary~~ Department of Corrections may have any pecuniary interest in any contract or business conducted by the ~~penitentiary~~ department.

Section 59. That § 24-1-26 be AMENDED:

24-1-26. No person employed by the ~~state penitentiary~~ Department of Corrections may engage in procuring clemency for any inmate confined therein, except as provided for in § 24-2-20.

Section 60. That § 24-1-27 be AMENDED:

24-1-27. Upon notification of the death of any inmate who has not been released on parole or suspended sentence, an official of the ~~penitentiary~~ Department of Corrections shall contact the county coroner, who shall proceed in accordance with the provisions of chapter 23-14. ~~An official of the penitentiary~~ A department official shall also attempt to contact the person designated by the inmate prior to death or the next of kin, if known, and offer the body to be delivered to such person at that person's expense. If attempts to contact such persons fail or if the offer of delivery is declined, ~~the warden~~ a department official, after forty-eight hours, shall make arrangements for the disposition of the body.

Section 61. That § 24-1-35 be AMENDED:

24-1-35. The Department of Corrections may contract with any local jail in the state for the custody and care of ~~prisoners~~ any prisoner committed to ~~the state penitentiary~~ a state correctional facility at a rate to be negotiated by the secretary of corrections.

Section 62. That § 24-2-1 be AMENDED:

24-2-1. All inmates under confinement in ~~the~~ a state ~~penitentiary~~ correctional facility are under the charge and custody of the ~~warden~~ secretary of corrections, who ~~shall~~ may delegate to the warden of the state correctional facility the authority to govern, ~~superintend,~~ house, discipline and employ them in the manner prescribed by law~~,~~ and the rules and ~~the~~ institutional policies of the Department of Corrections as approved by the secretary. ~~The~~ A warden may delegate administrative decision making to various staff members or committees consisting of staff members. However, any decision made by such staff member or committee is subject to the final approval of the ~~warden~~ secretary.

Section 63. That § 24-2-2 be REPEALED:

~~If an inmate, with a certified copy of the judgment of conviction and the required official statements, is delivered to the warden of the penitentiary, the warden shall mail to the clerk of courts of the sentencing county a receipt in which the warden acknowledges having received the inmate.~~

Section 64. That § 24-2-2.1 be AMENDED:

24-2-2.1. ~~The~~ A warden may not accept delivery of a defendant to ~~the~~ a state ~~penitentiary~~ correctional facility without a certified copy of the judgment containing the information required pursuant to § 23A-27-4.

Section 65. That § 24-2-5 be AMENDED:

24-2-5. ~~All~~ A correctional facility official shall mail to the destination of the inmate's choice, at the expense of the inmate, all effects, except money, in possession of each inmate when committed to the ~~penitentiary shall be mailed to the destination of the inmate's choice at the expense of the inmate~~ correctional facility. Money shall be deposited in the inmate's personal ~~penitentiary~~ institutional account.

Section 66. That § 24-2-9 be AMENDED:

24-2-9. Any inmate violating the rules or institutional policies is subject to any one or more of the following disciplinary sanctions:

(1) Withholding of statutory time for good conduct;

(2) Punitive confinement;

(3) Imposition of fines;

(4) Restriction of privileges;

(5) Loss of work or school privileges;

(6) Additional labor without compensation;

(7) Referral to various programs;

(8) Transfer to a more secure housing unit;

(9) Change in classification status.

No corporal punishment may be inflicted upon ~~inmates~~ any inmate in ~~the penitentiary~~ a state correctional facility.

Section 67. That § 24-2-10 be AMENDED:

24-2-10. Any person sentenced to imprisonment in ~~the state penitentiary~~ a state correctional facility is under the protection of the law, and any injury to such person not authorized by law is punishable in the same manner as if the person were not convicted or sentenced.

Section 68. That § 24-2-12 be AMENDED:

24-2-12. Any inmate against whom the disciplinary sanction of punitive confinement has been given for violating any of the rules or policies of the Department of Corrections, unless otherwise determined by the secretary of corrections, shall be housed in a segregation section of the ~~penitentiary~~ state correctional facility for such period as may be necessary for the best interests of discipline, justice, rehabilitation, and the protection of the inmate and others. The disciplinary board, established by rules promulgated by the Department of Corrections, may take away time granted for good conduct pursuant to § 24-5-1 for violating any of the rules or policies of the Department of Corrections, following a hearing and subject to the approval of the ~~warden~~ secretary of corrections.

Section 69. That § 24-2-14 be AMENDED:

24-2-14. No alcoholic beverage, marijuana, or weapon, as defined in subdivision 22-1-2(10), may be possessed by any inmate of ~~the state penitentiary~~ a state correctional facility. No prescription or nonprescription ~~drugs~~ drug, controlled substance as defined by chapter 34-20B, or any article of indulgence may be possessed by any inmate of ~~the state penitentiary~~ a state correctional facility except by order of a physician, physician assistant, or ~~certified~~ licensed nurse practitioner, as defined in chapters 36-4, 36-4A, and 36-9A, respectively~~, which order shall~~ Such order must be in writing and for a definite period. Any violation of this section constitutes a felony pursuant to the following schedule:

(1) Possession of any alcoholic beverage or marijuana is a Class 6 felony;

(2) Possession of any prescription or nonprescription drug or controlled substance is a Class 4 felony;

(3) Possession of a weapon as defined in subdivision 22-1-2(10) is a Class 2 felony.

Section 70. That § 24-2-17 be AMENDED:

24-2-17. The warden of a state correctional facility shall keep a true record of the conduct of each inmate and shall specify each infraction of the rules of discipline. ~~Each inmate shall be notified of~~ An inmate shall receive notice of every entry on the inmate's record of each such infraction of the rules of discipline and shall have thirty days to challenge the validity of the finding that the inmate committed the rule infraction or the disciplinary sanction imposed by notifying the warden. After investigation, the warden may determine that the inmate did not commit the rule infraction and revise the record accordingly. The warden may also modify the imposed disciplinary sanction or rule infraction upon approval of the secretary of corrections. The record shall be used whenever the question of any inmate's eligibility for parole or discharge arises pursuant to § 24-5-1.

Section 71. That § 24-2-22 be AMENDED:

24-2-22. Any employee or other person who delivers or procures to be delivered, or possesses with the intention to deliver, to any inmate in ~~the state penitentiary~~ a state correctional facility, or deposits or conceals in or around any facility or place used to house inmates, or in any mode of transport entering upon the grounds of any facility or place and its ancillary facilities used to house inmates, any article which is unlawful for an inmate to possess pursuant to state law or the rules of the Department of Corrections with the intent that any inmate obtain or receive such article, is guilty of a Class 6 felony.

Section 72. That § 24-2-25 be AMENDED:

24-2-25. The ~~warden of the state penitentiary~~ secretary of corrections may extend the limits of the place of confinement of an inmate, if the ~~warden~~ secretary has reasonable cause to believe that the inmate will honor the ~~warden's~~ secretary's prescribed conditions to visit or be housed in specifically designated places within the state.

Section 73. That § 24-2-27 be AMENDED:

24-2-27. The Department of Corrections may establish and maintain facilities, programs, or services outside the precincts of ~~the penitentiary proper~~ a state correctional facility and contract with other governmental entities for the care and maintenance of inmates committed to the ~~penitentiary~~ Department of Corrections. However, the court may not order that an inmate be housed in any

particular facility nor may the court order that an inmate be placed in a specific program or receive specific services. No inmate has any implied right or expectation to be housed in any particular facility, participate in any specific program, or receive any specific service. Each inmate is subject to transfer from any one facility, program, or service at the discretion of the ~~warden of the penitentiary~~ secretary of corrections or a designee of the secretary. Any escape from ~~the penitentiary~~ a state correctional facility or from a facility, program, or service maintained outside ~~the penitentiary~~ a state correctional facility is a violation of § 22-11A-2 or 22-11A-2.1. Venue for a prosecution for an escape from any facility is the county where the acts constituting the escape take place.

Section 74. That § 24-5-3 be AMENDED:

24-5-3. ~~Every inmate, when discharged~~ If not already provided, a correctional facility official shall provide every inmate with suitable clothing, a sum of money to be determined by the secretary of corrections, and transportation to the place where the inmate received sentence or an equivalent distance upon discharge from ~~the penitentiary~~ a correctional facility, whether by parole, suspended sentence, or final discharge~~, if not already provided, shall be provided with suitable clothing, a sum of money to be determined by the secretary of corrections, and transportation to the place where the inmate received sentence or an equivalent distance~~.

Section 75. That § 24-5-5 be AMENDED:

24-5-5. If any inmate of ~~the penitentiary~~ a state correctional facility dies, is discharged, or escapes, leaving ~~at the penitentiary~~ funds in the inmate's institutional account or other tangible personal property of value, ~~the warden~~ a correctional facility official shall apply these funds towards the inmate's obligations as provided for in § 24-2-29. At the ~~warden's~~ official's discretion, tangible personal property of value may be sold, donated to charity, discarded, returned to an heir, or used for the benefit of the ~~penitentiary~~ Department of Corrections. If the funds exceed the inmate's obligations as provided for in § 24-2-29, the official shall give the excess balance ~~shall be given~~ back to the inmate or an heir of the inmate. Otherwise, the official shall deposit the excess balance ~~shall be deposited~~ in the state general fund.

Section 76. That § 24-5-6 be AMENDED:

24-5-6. If any inmate of ~~the state penitentiary~~ a state correctional facility dies or is discharged from ~~the penitentiary~~ a state correctional facility with a negative balance in the inmate's institutional account, ~~the warden~~ a state correctional facility official may close out that account.

Section 77. That § 24-6A-1 be REPEALED:

~~The Mike Durfee State Prison, located at Springfield in Bon Homme County, is under the control of the Department of Corrections. The secretary of corrections shall appoint and set a salary for the warden of the facility. The warden of the Mike Durfee State Prison, under the supervision of the secretary, shall have charge and custody of the facility, with all lands, buildings, furniture, tools, equipment, implements, stock, and provisions, and all other property pertaining thereto or within the precincts thereof. All officers and employees of the Mike Durfee State Prison shall perform duties as may be required of them by the warden of the facility.~~

Section 78. That § 24-8-1 be AMENDED:

24-8-1. The Department of Corrections may conditionally release selected inmates and may extend the limits of the place of confinement of such inmates of ~~the state penitentiary~~ a state correctional facility. If the warden determines that the character and attitude of an inmate reasonably indicate that the inmate may be so trusted, the warden may release and provide for continued supervision of such an inmate to work at paid employment, ~~to seek employment,~~ or to participate in vocational training or other educational programs in the community after such employment or program has been investigated and approved pursuant to rules promulgated by the Department of Corrections. The warden may, with or without cause, terminate or suspend any such release.

Section 79. That § 24-8-4 be AMENDED:

24-8-4. ~~The secretary of corrections may designate state correctional institutions other than the penitentiary for participation in the program established by this chapter and such institutions so designated shall provide housing and supervision of inmates participating in this program.~~ The secretary of corrections may enter into agreements with other agencies of the state and the political subdivisions for the confinement and the providing of other services for those inmates whose employment or vocational training or other educational programs so require, and such agencies of the state and the political subdivisions may enter into such agreements.

Section 80. That § 24-15-1 be AMENDED:

24-15-1. If a defendant is sentenced to ~~the~~ a state ~~penitentiary~~ correctional facility, the Department of Corrections shall develop a file which shall contain a complete history of that person. The executive director of the Board of Pardons and Paroles shall generate an adequate case history of each inmate of ~~the~~ a state ~~penitentiary~~ correctional facility to enable the executive director to make recommendations to the Board of Pardons and Paroles. The case history shall include results of risk and needs assessments of the inmate conducted by the department and other agencies as available and copies of documents relevant to supervision, treatment, and violation decisions in the inmate's prior prison, probation and parole custodies. The case history shall be transferred and kept as a permanent record of the Department of Corrections, solely for the proper supervision of the inmate by the Department of Corrections and as a guide to the inmate's needs. Except for the information authorized for release pursuant to § 24-2-20, no person other than members of the Board of Pardons and Paroles, its executive director, the secretary of corrections, or any person specifically delegated for such access by the secretary of corrections, may inspect such file unless otherwise ordered by a circuit court or subpoena after notice to the secretary of corrections and an opportunity for a hearing on any objections to inspection. The secretary shall have ten days after receipt of the notice to inform the court if the secretary requests a hearing.

Section 81. That § 24-15-1.1 be AMENDED:

24-15-1.1. Parole is the discretionary conditional release of an inmate from actual ~~penitentiary~~ state correctional facility custody before the expiration of the inmate's term of imprisonment. The prisoner remains an inmate under the legal custody of the Department of Corrections until the expiration of the inmate's term of imprisonment. A prisoner is not required to accept a conditional parole. A prisoner is never entitled to parole. However, parole may be granted if in the judgment of the Board of Pardons and Paroles granting a parole would be in the best interests of society and the prisoner.

Neither this section or its application may be the basis for establishing a constitutionally protected liberty, property, or due process interest in any prisoner.

Section 82. That § 24-15-3 be AMENDED:

24-15-3. Whenever any person becomes an inmate of ~~the penitentiary~~ a state correctional facility, the ~~director shall~~ Department of Corrections must immediately establish in the record the date when the inmate will be eligible for consideration for parole. Such consideration for a parole eligibility date is subject to change upon receipt of information regarding a change in the number of prior felony convictions or any subsequent felony convictions. Any inmate who is aggrieved by the established parole consideration eligibility date may apply for a hearing before the Board of Pardons and Paroles for a final determination of the true and correct parole consideration eligibility date. Between the date a person becomes an inmate of the ~~penitentiary~~ state correctional facility and the date on which the person becomes eligible for consideration for parole, the ~~director shall~~ department must complete the history of the inmate and ~~shall~~ must study the life, habits, previous environment, and nature of the inmate to determine the advisability of recommending the inmate for parole when the inmate becomes eligible to be considered. At least ten days before the date of eligibility the ~~director shall~~ department must submit to the board the findings regarding the inmate.

Section 83. That § 24-15-7.1 be AMENDED:

24-15-7.1. Any person convicted of a felony while an inmate under the custody of the ~~warden of the penitentiary~~ Department of Corrections and for which the sentence is made to run consecutively is not eligible for consideration for parole until serving the last of all such consecutive sentences. In such cases the parole consideration eligibility date shall be established subject to the provisions of subdivisions 24-15-5(2) and (3).

Section 84. That § 24-15-8 be AMENDED:

24-15-8. When an inmate becomes eligible for consideration for parole, the inmate is entitled to a hearing with the Board of Pardons and Paroles to present the inmate's application for parole. An inmate may decline parole consideration and waive the right to a hearing. The board may issue an order to the Department of Corrections that the inmate shall be paroled if it is satisfied that:

(1) The inmate has been confined in ~~the penitentiary~~ a state correctional facility for a sufficient length of time to accomplish the inmate's rehabilitation;

(2) The inmate will be paroled under the supervision and restrictions provided by law for parolees, without danger to society; and

(3) The inmate has secured suitable employment or beneficial occupation of the inmate's time likely to continue until the end of the period of the inmate's parole in some suitable place within or without the state where the inmate will be free from criminal influences.

Neither this section nor its application may be the basis for establishing a constitutionally protected liberty, property, or due process interest in any prisoner.

Section 85. That § 24-15-9 be AMENDED:

24-15-9. The Board of Pardons and Paroles may order the Department of Corrections to transfer any inmate to the Human Services Center. The director of the human services center shall notify the Department of Corrections when the inmate is ready to be transferred back to the state ~~penitentiary~~ correctional facility.

Upon receipt of the notice, the Department of Corrections shall within five days bring the inmate back to the state ~~penitentiary~~ correctional facility.

Section 86. That § 24-15-21 be AMENDED:

24-15-21. If the ~~executive director of the board~~ chair of the Board of Pardons and Parole is satisfied that any provision of § 24-15-20 or 24-15A-27 has been violated or an inmate under parole supervision in the community has escaped, the executive director of the Board of Pardons and Parole may issue a warrant approved by the chair or a designee of the Board of Pardons and Parole to the Department of Corrections, a law enforcement officer, or parole agent directing that the parolee or inmate named be arrested. Pursuant to the provisions of § 24-15-23, the parolee may be returned to the state ~~penitentiary~~ correctional facility. Upon the issuance of the warrant, the running of the parole supervision time shall be suspended until the board has entered a final order on the revocation. The board shall credit the inmate with time spent in custody as a direct result of the parole violation.

Section 87. That § 24-15-22 be AMENDED:

24-15-22. Immediately upon the return of a parolee to the ~~penitentiary~~ state correctional facility, the supervising agent shall immediately furnish to the Board of Pardons and Paroles the permanent records and a report containing all the facts connected with the return of the parolee.

Section 88. That § 24-15-23 be AMENDED:

24-15-23. Subject to the provisions of §§ 24-15-23.1 and 24-15-23.2, within ten working days of the arrest of the parolee, a preliminary hearing ~~shall~~ must be held. The preliminary hearing ~~shall~~ must be held before an independent hearing officer to determine if there is probable cause to believe that the parolee has violated the terms and conditions of the parolee's parole status. The parolee has the right to waive this preliminary hearing at any time after the order for arrest has been issued by the executive director of the Board of Pardons and Paroles. If probable cause is found to exist, the parolee is to be returned to the ~~penitentiary~~ state correctional facility, there to be held, for a hearing to be held before the Board of Pardons and Paroles to determine whether the parole should be revoked. If the parolee wishes to admit to an alleged violation of conditions of parole, the parolee may waive an appearance at the revocation hearing with the board.

Section 89. That § 24-15A-4 be REPEALED:

~~Any inmate violating the rules or institutional policies is subject to any of the following disciplinary sanctions:~~

~~(1) Disciplinary segregation;~~

~~(2) Imposition of fines;~~

~~(3) Loss of privileges;~~

~~(4) Additional labor without compensation;~~

~~(5) Referral to various programs;~~

~~(6) Transfer to a more secure housing unit;~~

~~(7) Change in classification status.~~

~~No corporal punishment may be inflicted upon inmates in the penitentiary.~~

Section 90. That § 24-15A-6 be AMENDED:

24-15A-6. The department ~~shall~~ must establish the sentence discharge date for each inmate based on the total sentence length, minus court ordered jail time credit. The total sentence length is the sum of imprisonment time and any suspended time. In the case of an entirely suspended ~~penitentiary~~ state incarceration sentence under the supervision of the Department of Corrections and the Board of Pardons and Paroles pursuant to §§ 22-6-11, 23A-27-18.4, and 23A-27-19, the total sentence length is the term of imprisonment that has been suspended. Each inmate ~~shall be~~ is under the jurisdiction of the department, either incarcerated or under parole release or a combination, for the entire term of the inmate's total sentence length unless the board grants an early final discharge pursuant to § 24-15A-8, a partial early final discharge pursuant to § 24-15A-8.1, the court modifies the sentence, the inmate receives earned discharge credits pursuant to § 24-15A-50 or 24-15A-50.1, the inmate receives a compliant discharge pursuant to § 16-22-29, or the sentence is commuted.

Section 91. That § 24-15A-15 be AMENDED:

24-15A-15. Parole is the conditional release of an inmate from actual ~~penitentiary~~ state correctional facility custody before the expiration of the inmate's term of imprisonment. The prisoner remains an inmate under the legal custody of the department until the expiration of the inmate's term of imprisonment. A prisoner is not required to accept parole.

Section 92. That § 24-15A-20 be AMENDED:

24-15A-20. If a person is convicted of a felony while an inmate under the custody of the warden of the ~~penitentiary~~ Department of Corrections, the sentence shall run consecutively and the person is not eligible for consideration for parole until serving the last of all such consecutive sentences, unless the sentencing court specifically orders otherwise. The parole date shall be established subject to the provisions of § 24-15A-32. This section does not apply to a person who commits a felony while on parole as defined in § 24-15A-15.

Section 93. That § 24-15A-32 be AMENDED:

24-15A-32. Each inmate sentenced to a ~~penitentiary~~ state incarceration term, except those under a sentence of life or death, or determined to be ineligible for parole as authorized in § 24-15A-32.1, ~~shall~~ must have an initial parole date set by the department. This date ~~shall~~ must be calculated by applying the percentage indicated in the following grid to the full term, minus any suspended time of the inmate's sentence pursuant to § 22-6-1. The following crimes or an attempt to commit, ~~or~~ a conspiracy to commit, or a solicitation to commit, any of the following crimes shall be considered a violent crime for purposes of setting an initial parole date: murder, manslaughter, rape, aggravated assault, riot, robbery, burglary in the first degree, burglary in the second degree if committed before July 1, 2006, arson, kidnapping, felony sexual contact as defined in § 22-22-7, child abuse, felony sexual contact as defined in § 22-22-7.2, felony stalking as defined in §§ 22-19A-2 and 22-19A-3, photographing a child in an obscene act, felony assault as defined in §§ 22-18-26 and 22-18-29, felony simple assault as defined in § 22-18-1, aggravated criminal battery of an unborn child as defined in § 22-18-1.3, aggravated battery of an infant as defined in § 22-18-1.4, assault with intent to cause serious permanent disfigurement as defined in § 22-18-1.5, commission of a felony while armed as defined in § 22-14-12, discharging a firearm at an occupied structure or motor vehicle as defined in § 22-14-20, discharging a firearm from a moving vehicle as defined in § 22-14-21, criminal pedophilia, threatening to commit a sexual offense as defined in § 22-22-45, abuse

or neglect of a disabled adult as defined in § 22-46-2, and aggravated incest as defined in §§ 22-22A-3 and 22-22A-3.1:

Felony Convictions			
Felony Class	First	Second	Third
Nonviolent			
Class 6	.25	.30	.40
Class 5	.25	.35	.40
Class 4	.25	.35	.40
Class 3	.30	.40	.50
Class 2	.30	.40	.50
Class 1	.35	.40	.50
Class C	.35	.40	.50
Violent			
Class 6	.35	.45	.55
Class 5	.40	.50	.60
Class 4	.40	.50	.65
Class 3	.50	.60	.70
Class 2	.50	.65	.75
Class 1	.50	.65	.75
Class C	.50	.65	.75
Class B	1.0	1.0	1.0
Class A	1.0	1.0	1.0

The application of the violent or nonviolent column of the grid is based on whether the inmate's current sentence is for a violent or nonviolent crime. ~~Any~~ The department shall consider any prior felony ~~shall be considered~~ regardless of whether ~~it~~ the crime is violent or nonviolent when determining which percentage to apply to the inmate's parole date calculation. Each inmate shall serve at least sixty days prior to parole release. ~~Inmates~~ An inmate with a life ~~sentences are~~ sentence is not eligible for parole except as provided in §§ 24-15A-55 to 24-15A-68, inclusive. An initial parole date through the application of this grid may be applied to a life sentence only after the sentence is commuted to a term of years. A Class A or B felony commuted to a number of years shall be applied to the Class C violent column of the grid. An inmate convicted of a Class A or B felony who was a juvenile at the time of the offense and receives a sentence of less than life shall be applied to the Class C violent column of the grid.

Section 94. That § 25-6-4 be AMENDED:

25-6-4. No child may be adopted without the consent of the child's parents. However, if it is in the best interest of the child, the court may waive consent from a parent or putative father who:

(1) Has been convicted of any crime punishable by imprisonment in ~~the penitentiary~~ a state correctional facility for a period that, in the opinion of the court, will deprive the child of the parent's companionship for a critical period of time;

(2) Has, by clear and convincing evidence, abandoned the child for six months or more immediately prior to the filing of the petition;

(3) Has substantially and continuously or repeatedly neglected the child and refused to give the child necessary parental care and protection;

(4) Being financially able, has willfully neglected to provide the child with the necessary subsistence, education, or other care necessary for the child's health, morals, or welfare or has neglected to pay for such subsistence, education, or other care if legal custody of the child is lodged with others and such payment ordered by the court;

(5) Is unfit by reason of habitual abuse of intoxicating liquor or narcotic drugs;

(6) Has been judicially deprived of the custody of the child, if the adjudication is final on appeal to the court of last resort or the time for an appeal has expired;

(6A) Has caused the child to be conceived as a result of rape or incest; or

(7) Does not appear personally or by counsel at the hearing to terminate parental rights after notice pursuant to §§ 25-5A-11 and 25-5A-12 which was received at least fifteen days prior to the hearing.

Section 95. That § 26-11A-6 be AMENDED:

26-11A-6. A child under the age of eighteen years who has been sentenced as an adult felon to a term of imprisonment in ~~the penitentiary~~ a state correctional facility may be placed in a Department of Corrections juvenile facility by the secretary of corrections. This section does not affect the child's status as an adult offender and inmate of the ~~penitentiary~~ state correctional facility.

Section 96. That § 26-11A-20 be AMENDED:

26-11A-20. The secretary of corrections may discharge a juvenile from the Department of Corrections upon the following:

(1) As a reward for good conduct and upon satisfactory evidence of reformation;

(2) As a result of a conviction for a new crime as an adult, if the juvenile is placed on adult probation or sentenced to the county jail or a state ~~penitentiary~~ correctional facility;

(3) If the juvenile, upon reaching the age of majority, lives outside the jurisdiction of the State of South Dakota and the interstate compact on juveniles is not available due to the juvenile's age or circumstances; or

(4) If the juvenile is on aftercare and has a suitable placement, and a discharge is determined to be in the best interests of the juvenile.

No adjudicated juvenile may remain within the jurisdiction of the Department of Corrections beyond the age of twenty-one years. The discharge of a juvenile from the Department of Corrections constitutes a complete release from all penalties, excluding unpaid fines, fees, or restitution.

Section 97. That § 32-23-4.9 be AMENDED:

32-23-4.9. If a conviction for a violation of § 32-23-1 is for a sixth offense, or subsequent offense, and the person had at least five convictions of § 32-23-1 occurring within twenty-five years of the violation being charged, and at least two of those prior convictions having occurred within ten years, the violation is an aggravated offense and the person is guilty of a Class 4 felony.

The court, in pronouncing sentencing, shall revoke the person's driver license for a period of not less than three years from the date the sentence is imposed or three years from the date of initial release from imprisonment, whichever is later. If the person is returned to imprisonment prior to the completion of the period of driver license revocation, time spent imprisoned does not count toward fulfilling the period of revocation. If the person is convicted of driving without a license during that period, the court shall sentence the person to the county jail for not less than twenty days, which sentence may not be suspended. Notwithstanding § 23A-27-19, the court retains jurisdiction to modify the conditions of the license revocation for the term of such revocation.

Upon the person's successful completion of a court-approved chemical dependency counseling program and proof of financial responsibility pursuant to § 32-35-113, the court may permit the person to operate a vehicle for the purposes of employment, 24/7 sobriety testing, attendance at school, child care delivery or pickup, or attendance at counseling programs.

For each person convicted under this section and placed on probation, parole, or released from prison due to a suspended sentence, the person's supervision must include at least one of the following: enrollment in an alcohol or drug accountability program, an ignition interlock, a breath alcohol interlock, an alcohol monitoring bracelet, or another enhanced monitoring tool. The Unified Judicial System shall oversee supervision of the offender if the sentence does not include a term of imprisonment in ~~the penitentiary~~ a state correctional facility. The Department of Corrections shall oversee supervision of the offender if the sentence includes a term of imprisonment in ~~the penitentiary~~ a state correctional facility. Any offender supervised pursuant to this section is not excluded from earned discharge credit as otherwise authorized by statute.

If, during the period of supervision imposed under this section, the person being supervised violates conditions, the person must be penalized according to the graduated sanctions policy to be established by the Supreme Court or the Department of Corrections, respectively.

Section 98. That § 34-20B-1 be AMENDED:

34-20B-1. Terms as used in this chapter mean:

(1) "Administer," to deliver a controlled drug or substance to the ultimate user or human research subject by injection, inhalation, or ingestion, or by any other means;

(2) "Agent," an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser and includes a common or contract carrier, public warehouseman, or employee thereof;

(3) "Control," to add, remove, or change the placement of a drug, substance, or immediate precursor under §§ 34-20B-27 and 34-20B-28;

(4) "Counterfeit substance," a controlled drug or substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person or persons who manufactured, distributed, or dispensed such substance and which thereby falsely purports or is represented to be the product of, or to have been distributed by, such other manufacturer, distributor, or dispenser;

(5) "Deliver" or "delivery," the actual, constructive, or attempted transfer of a controlled drug, substance, or marijuana whether or not there exists an agency relationship;

(6) "Department," the Department of Health created by chapter 1-43;

(7) "Dispense," to deliver a controlled drug or substance to the ultimate user or human research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for such delivery, and a dispenser is one who dispenses;

(8) "Distribute," to deliver a controlled drug, substance, or marijuana. A distributor is a person who delivers a controlled drug, substance, or marijuana;

(9) "Hashish," the resin extracted from any part of any plant of the genus cannabis that contains a delta-9 tetrahydrocannabinol concentration of more than three-tenths of one percent on a dry weight basis;

(10) "Imprisonment," imprisonment in ~~the~~ a state ~~penitentiary~~ correctional facility unless the penalty specifically provides for imprisonment in the county jail;

(11) "Manufacture," the production, preparation, propagation, compounding, or processing of a controlled drug or substance, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis. A manufacturer includes any person who packages, repackages, or labels any container of any controlled drug or substance, except practitioners who dispense or compound prescription orders for delivery to the ultimate consumer;

(12) "Marijuana," all parts of any plant of the genus cannabis, whether growing or not; the seeds thereof; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant or its seeds. The term does not include fiber produced from the mature stalks of the plant, or oil or cake made from the seeds of the plant, or the resin when extracted from any part of the plant or cannabidiol in a drug product approved by the United States Food and Drug Administration. The term does not include the plant Cannabis sativa L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent on a dry weight basis;

(13) "Narcotic drug," any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(a) Opium, coca leaves, and opiates;

(b) A compound, manufacture, salt, derivative, or preparation of opium, coca leaves, or opiates;

(c) A substance (and any compound, manufacture, salt, derivative, or preparation thereof) which is chemically identical with any of the substances referred to in subsections (a) and (b) of this subdivision;

except that the term, narcotic drug, as used in this chapter does not include decocainized coca leaves or extracts of coca leaves, which extracts do not contain cocaine or ecgonine;

(14) "Opiate" or "Opioid," any controlled drug or substance having an addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability;

(15) "Opium poppy," the plant of the species papaver somniferum L., except the seeds thereof;

(16) "Person," any corporation, association, limited liability company, partnership or one or more individuals;

(17) "Poppy straw," all parts, except the seeds, of the opium poppy, after mowing;

(18) "Practitioner," a doctor of medicine, osteopathy, podiatry, optometry, dentistry, or veterinary medicine licensed to practice their profession, or pharmacists licensed to practice their profession; physician assistants certified to practice their profession; certified nurse practitioners, certified nurse midwives, and certified registered nurse anesthetists to practice their profession; government employees acting within the scope of their employment; and persons permitted by certificates issued by the department to distribute, dispense, conduct research with respect to, or administer a substance controlled by this chapter;

(19) "Prescribe," an order of a practitioner for a controlled drug or substance.

(20) "Production," the manufacture, planting, cultivation, growing, or harvesting of a controlled drug or substance;

(21) "State," the State of South Dakota;

(22) "Ultimate user," a person who lawfully possesses a controlled drug or substance for personal use or for the use of a member of the person's household or for administration to an animal owned by the person or by a member of the person's household;

(23) "Controlled substance analogue," any of the following:

(a) A substance that differs in its chemical structure to a controlled substance listed in or added to the schedule designated in schedule I or II only by substituting one or more hydrogens with halogens or by substituting one halogen with a different halogen; or

(b) A substance that is an alkyl homolog of a controlled substance listed in or added to schedule I or II; or

(c) A substance intended for human consumption; and

(i) The chemical structure of which is substantially similar to the chemical structure of a controlled substance in schedule I or II;

(ii) Which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in schedule I or II; or

(iii) With respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant,

depressant, or hallucinogenic effect on the central nervous system of a controlled substance in schedule I or II;

However, the term, controlled substance analogue, does not include a controlled substance or any substance for which there is an approved new drug application.

Signed March 6, 2023

DOMESTIC RELATIONS

Chapter 83

(House Bill 1231)

An Act to revise certain provisions related to the sealing of adoption records.

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

Section 1. That § 25-6-15 be AMENDED:

25-6-15. The files and records of the court in an adoption ~~proceedings~~ proceeding are not open to inspection or copy ~~by persons other than~~ except:

(1) By the parents by adoption and their attorneys, representatives of the Department of Social Services, and the child ~~when he reaches maturity, except~~ upon reaching age eighteen, upon written request and proper proof of identification; or

(2) Upon order of the court expressly permitting inspection or copy. ~~No person having charge of any adoption records may disclose the names of any parents, or parents by adoption, or any other matter, appearing in such records, or furnish certified copies of any such records, except upon order of the court for the county in which the adoption took place or other court of competent jurisdiction except as otherwise provided by this section and §§ 25-6-15.1 to 25-6-15.3, inclusive.~~

The court may not order disclosure of any matter appearing in adoption records unless the Department of Social Services or the licensed adoption agency has received notice of the petition for disclosure of such information and of the date fixed for hearing the petition. The Department of Social Services or the licensed adoption agency shall neither contest nor support the petition for disclosure during its hearing.

Section 2. That § 34-25-16.4 be AMENDED:

34-25-16.4. When a new certificate of birth is established pursuant to §§ 34-25-15 to 34-25-16.2, inclusive, the original certificate of birth together with the adoption information or other evidence upon which a new certificate is made ~~shall~~ must be sealed, filed, and may not be opened ~~only upon order of a court of competent jurisdiction, or~~ except by the secretary of health for purposes of

properly administering the vital registration system, by the child or adoptee upon reaching age eighteen, or upon order of a court of competent jurisdiction.

Signed March 23, 2023

Chapter 84

(Senate Bill 75)

An Act to revise provisions related to parental support for expenses related to pregnancy and childbirth.

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

Section 1. That § 25-8-3 be AMENDED:

25-8-3. The father and mother of a child born out of wedlock are jointly and severally liable to pay the reasonable expenses ~~of the mother's pregnancy and confinement~~ related to the mother's:

(1) Pregnancy or prenatal care for the child;

(2) Labor and delivery of the child; and

(3) Postpartum recovery and any medical complications arising from pregnancy with the child.

Section 2. That § 25-8-7 be AMENDED:

25-8-7. An action to determine paternity or proceedings to compel support by ~~the~~ a father, including a proceeding to compel payment of reasonable expenses pursuant to § 25-8-3, are civil actions governed by the Rules of Civil Procedure. They are not exclusive of other proceedings that may be available on principles of law or equity.

Upon determining paternity of a child, the court shall give judgment declaring the paternity of the father to the child. The court may award a money judgment to the appropriate party for the recovery of any of the following reasonable expenses ~~of the mother's pregnancy and confinement, for~~:

(1) Those provided in § 25-8-3;

(2) For the education, support, or funeral expenses for the child~~,~~; or ~~for~~

(3) For any other expenses with respect to the child as the court deems reasonable.

The court shall enter an order for the support and custody of the child. The court may require the person ordered to pay support to give reasonable security for providing the support. The court may modify or vacate any order issued pursuant to this section at any time.

Section 3. That § 25-8-12 be AMENDED:

25-8-12. The proceeding to determine paternity or compel support by a father, including a proceeding to compel payment of reasonable expenses pursuant to § 25-8-3, may be instituted during the pregnancy of the mother or after the birth of the child. Except with the consent of the person alleged to be the father, the trial may not be had until after the birth of the child.

Section 4. That § 25-8-62 be AMENDED:

25-8-62. In any action to establish paternity, or a proceeding to compel support, including a proceeding to compel payment of reasonable expenses pursuant to § 25-8-3, medical bills related to ~~childbirth, pregnancy, or confinement expenses,~~ a mother's pregnancy and prenatal care, labor and delivery, postpartum recovery, and medical complications arising from pregnancy, and genetic testing bills ~~shall be~~, are admissible as evidence without foundation testimony, and shall constitute prima facie evidence of the amounts incurred.

Section 5. That § 25-7-6.25 be AMENDED:

25-7-6.25. The department shall create and distribute a standardized form to allow a parent, guardian, or other custodian to request reimbursement of any medical or health care costs from the responsible parent.

A parent, guardian, or custodian ~~shall also be entitled to~~ may use the small claims procedure of chapter 15-39 as a means to collect unreimbursed medical or health care costs from the responsible parent.

If paternity has been determined pursuant to chapter 25-8, a mother may use the small claims procedure of chapter 15-39 as a means to collect reasonable expenses as provided in § 25-8-3.

Signed March 23, 2023

MINORS

Chapter 85

(Senate Bill 70)

An Act to revise provisions related to courtroom modifications for child witnesses.

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

Section 1. That § 26-8A-31 be AMENDED:

26-8A-31. At the taking of testimony pursuant to § 26-8A-30, the public ~~shall~~ must be excluded from the room in which the ~~witness~~ child is testifying. The court shall determine those persons permitted to be physically present ~~shall be determined by the court~~. The court, in its discretion, may permit in the room a person whose presence would contribute to the well-being of the ~~witness~~ child or the reduction of apprehension of the ~~witness~~ child during the testimony. Attorneys for the parties may not be excluded.

If the court makes a specific finding, outside the presence of the jury, that the presence of the defendant, or in a civil case, the presence of the respondent, in the same room as the ~~witness~~ child, will cause substantial emotional distress to the child and that such distress would impair the ability of the ~~witness~~ child to communicate, upon such finding the court may exclude the defendant from the room in which the ~~witness~~ child is testifying. However, if the defendant is excluded, the testimony of the ~~witness~~ child shall be by two-way, closed ~~-~~circuit television

such that the testimony of the ~~witness~~ child is televised in the courtroom and simultaneously thereto, a monitor in the room in which the ~~witness~~ child is testifying displays a view of the courtroom which view shall include the defendant. The right to have the defendant's image televised in the room in which the ~~witness~~ child is testifying is a right of the defendant which the defendant may waive. If the defendant is excluded from the room in which the ~~witness~~ child is testifying, the court ~~shall~~ must provide for instantaneous communication between the defendant and defense counsel and grant reasonable court recesses during the testimony for consultation between the defendant and defense counsel. The court may communicate by audio system with attorneys outside of the courtroom.

If, on the motion of the prosecuting attorney and outside the presence of the jury, the court makes a specific finding that the child will suffer substantial emotional distress that will impair the ability of the child to communicate due to the presence of the jury, the court may exclude the jury from the room in which the child is testifying. The testimony of the child must be televised at the same time to the courtroom by closed circuit television equipment.

Section 2. That chapter 26-8A be amended with a NEW SECTION:

In any proceeding in which a child under the age of sixteen is describing any act of sexual contact or rape performed with or on the child by another, any act of physical abuse or neglect of the child by another, any act of physical abuse or neglect of another child, any act of human trafficking of the child by another, or any act constituting a crime of violence as defined in § 22-1-2 committed against the child or another child, the court may, on its own motion or by motion of an attorney in the proceeding, provide any of the following accommodations to the child:

(1) To be addressed, asked questions, and read the oath or affirmation to testify truthfully in an age-appropriate manner;

(2) To be free of nuisance or harassing tactics in the proceeding;

(3) To have a person who would contribute to the well-being of the child present, clearly visible, and in close proximity, if the person is not a witness in the proceeding;

(4) To have sufficient breaks in the proceedings to allow for the comfort of the child; or

(5) To have a certified therapeutic dog as defined in § 23A-24-10, an item used to provide psychological comfort, or both, present in the room with the child.

Signed March 20, 2023

Chapter 86

(Senate Bill 4)

An Act to modify a court's authority to commit a habitual juvenile offender to the Department of Corrections.

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

Section 1. That § 26-8C-7 be AMENDED:

26-8C-7. If a child has been adjudicated as a delinquent child, the court shall enter a decree of disposition according to the least restrictive alternative available in keeping with the best interests of the child. The decree shall contain one or more of the following:

(1) The court may require the child to pay restitution, as defined in subdivision 23A-28-2(4) and under conditions set by the court, if payment can be enforced without serious hardship or injustice to the child;

(2) The court may impose a fine not to exceed one thousand dollars;

(3) The court may place the child on probation under the supervision of a court services officer or another designated individual pursuant to § 26-8C-14;

(4) The court may require a child as a condition of probation to participate in a supervised community service program, if the child is not deprived of the schooling that is appropriate for the child's age, needs, and specific rehabilitative goals. The supervised community service program shall be of a constructive nature designed to promote rehabilitation, appropriate to the age level and physical ability of the child, and shall be combined with counseling by the court services officer or other guidance personnel. The supervised community service program assignment shall be made for a period of time consistent with the child's best interests, but for not more than ninety days;

(5) The court may place the child at the Human Services Center for examination and treatment;

(6) The court may place the child in a detention facility for not more than ninety days, which may be in addition to any period of temporary custody;

(7) The court may place the child in an alternative educational program;

(8) The court may order the suspension or revocation of the child's right to apply for a driving privilege, suspend or revoke an existing driving privilege, or restrict the privilege in the manner the court sees fit, including requiring that financial responsibility be proved and maintained;

(9) The court may assess or charge costs and fees permitted by §§ 16-2-41, 23-3-52, 23A-27-26, 23A-28B-42, and 23A-27-27 against the child, parent, guardian, custodian, or other party responsible for the child; or

(10) The court may only commit a child to the Department of Corrections if the judge finds that:

(a) No viable alternative exists; and

(b) The Department of Corrections is the least restrictive alternative; and one of the following:

(i) The child is currently adjudicated delinquent for an offense eligible for transfer proceedings pursuant to § 26-11-3.1; the child is currently adjudicated delinquent for a crime of violence pursuant to subdivision 22-1-2(9), sex offense pursuant to § 22-24B-1, felony sexual registry offense pursuant to chapter 22-24B, or burglary in the second degree pursuant to § 22-32-3; or the court finds from evidence presented at the dispositional hearing or from the pre-dispositional report that the youth presents a significant risk of physical harm to another person; ~~or~~

(ii) The child has been previously adjudicated delinquent for separate delinquent acts, arising out of separate and distinct criminal episodes, three or more times within the preceding twelve-month period; or

~~(ii)~~(iii) The court finds from evidence presented at the dispositional hearing or from the pre-dispositional report that the child is at high risk for re-offense based on a validated risk assessment, and the child has either had a previous unsuccessful discharge from probation for a felony offense or is on supervised probation for a felony offense; and

(A) The child has been adjudicated for intentional damage to property and the property damage exceeds five thousand dollars; or

(B) The child has been adjudicated for a drug distribution offense that is punishable at least as a Class 4 felony.

Any finding made pursuant to this section shall be made in the written decree.

Signed March 20, 2023

Chapter 87

(Senate Bill 6)

An Act to authorize community response teams to recommend alternative community-based resources for children alleged to be delinquent and children alleged to be in need of supervision prior to adjudication.

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

Section 1. That § 26-8D-1 be AMENDED:

26-8D-1. Terms used in this chapter mean:

(1) "Community response team" or "team," a support team tasked with finding viable community resources to help rehabilitate ~~delinquent children and children in need of supervision~~ children alleged to be delinquent and children alleged to be in need of supervision in community-based settings who are at risk for commitment to the Department of Corrections;

(2) "Juvenile cited violation," designated delinquency or children in need of supervision violation handled by law enforcement with the uniform traffic ticket pursuant to § 23-1A-2;

(3) "Juvenile Justice Oversight Council," the council established by § 26-8D-7;

(4) "Quality assured," monitored to determine the extent to which individuals delivering treatment to juveniles are administering that treatment consistently and as designed;

(5) "Recidivism," for the Department of Corrections for the purposes of this

chapter, within one year, two years, or three years of discharge from the custody of the Department of Corrections, a juvenile commitment or conviction in adult court for a felony resulting in a sentence to the Department of Corrections. For the Unified Judicial System for the purposes of this chapter, the term means being adjudicated delinquent while on probation or adjudicated delinquent or convicted of a felony in adult court within one year, two years, or three years after discharge from juvenile probation;

(6) "Risk factors," characteristics and behaviors that, when addressed or changed, affect a child's risk for committing delinquent acts. The term includes prior and current offense history, antisocial behavior, antisocial personality, attitude and thinking about delinquent activity, family dysfunction, low levels of education or engagement in school, poor use of leisure time and recreation, and substance abuse;

(7) "Specialized transition services," independent living; foster care; respite; crisis stabilization; short-term assessment; a residential setting intended to transition the juvenile from a residential treatment center, intensive residential treatment center, or more restrictive group care or juvenile corrections facility; or other transitional setting authorized by the secretary of the Department of Corrections;

(8) "Treatment," when used in a juvenile justice context, targeted interventions that utilize evidence-based practices to focus on juvenile risk factors, to improve mental health, and to reduce the likelihood of delinquent behavior; and

(9) "Validated risk and needs assessment," a tool scientifically proven to identify factors for delinquency and predict a child's risk to reoffend.

Section 2. That § 26-8D-10 be AMENDED:

26-8D-10. The presiding judge of each judicial circuit may appoint one or more community response teams to assist judges by recommending viable community-based interventions for ~~children in need of supervision and delinquent children~~ children alleged to be delinquent and children alleged to be in need of supervision. Each team appointed ~~shall~~ must include the court services officer in the jurisdiction where the team is to operate, a representative of a public school district in which the team is to operate, and designees of the secretaries of the Departments of Social Services and Corrections. Each team may include ~~a representative of a public school district in which the team is to operate and~~ one or more representatives of the public. The Unified Judicial System shall maintain a record of the membership of each team and report nonidentifying data to the oversight council. The team may operate telephonically or through electronic communications.

The records prepared or maintained by the team are confidential. However, the records may be inspected by, or disclosed to, justices, judges, magistrates, and employees of the Unified Judicial System in the course of their duties~~,~~; the attorney for the child and child's parents, guardian, or other custodian~~,~~; the state's attorney prosecuting the case~~,~~; and to any person specifically authorized by order of the court. The record of the team may only be released to a third party upon good cause shown to the satisfaction of the court that the release is necessary and the information contained in the record is not available elsewhere.

Section 3. That § 26-8B-4 be AMENDED:

26-8B-4. ~~Following adjudication of a child as a child in need of~~

~~supervision, the court may continue the case and may require a court services officer to present to the court a plan of disposition.~~ If a community response team as defined in § 26-8D-1 has been established, following any advisory or initial hearing, the court may seek recommendations for community-based interventions and rehabilitative resources from the team. Following adjudication of a child in need of supervision and prior to any disposition to the Department of Corrections, the court may seek a recommendation for a viable community alternative disposition from the team. If the team is unable to provide any recommendation within seven days of the referral, the court may exercise its discretion and make a disposition decision without the input of the team, pursuant to § 26-8B-6. In all cases, the court may adopt the recommendation of the team in part, in full, or reject the recommendation of the team in its entirety.

Following adjudication of a child as a child in need of supervision, the court may continue the case and may require a court services officer to present to the court a plan of disposition.

Section 4. That § 26-8C-5 be AMENDED:

26-8C-5. ~~Following adjudication of a child as a delinquent child, the court may continue the case and may require a court services officer to present to the court a plan of disposition.~~ Where a community response team as defined in § 26-8D-1 has been established, following any advisory or initial hearing, the court may seek recommendations for community-based interventions and rehabilitative resources from the team. Following adjudication of a child as a delinquent child and prior to any disposition to the Department of Corrections, the court may seek a recommendation for a viable community alternative disposition from the team. If the team is unable to provide any recommendation within seven days of the referral, the disposing court may exercise its discretion and make a disposition decision without the input of the team, pursuant to § 26-8C-7. In each case, the court may adopt the recommendation of the team in part, in full, or reject the recommendation of the team in its entirety.

Following adjudication of a child as a delinquent child, the court may continue the case and may require a court services officer to present to the court a plan of disposition.

Signed March 8, 2023

Chapter 88

(Senate Bill 5)

An Act to extend the termination date of the Juvenile Justice Oversight Council and modify its membership requirements.

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

Section 1. That § 26-8D-9 be AMENDED:

26-8D-9. ~~The oversight council shall meet within ninety days following appointment and shall meet semiannually thereafter.~~ The oversight council terminates ~~eight years after its first meeting~~ on June 30, 2031, unless the Legislature continues the oversight council for a specified period of time. The oversight council shall meet semi-annually or at the call of its chair or at the request of a majority of its members. The oversight council may:

(1) Review the ~~recommendations of the juvenile justice reinvestment initiative work group in the final report dated November 2014, track implementation, and evaluate compliance with this chapter~~ juvenile justice system for changes that improve public safety, reduce recidivism, hold youth accountable, provide better outcomes for children and families, and control juvenile justice costs;

(2) Review performance measures and outcome measures required by this chapter and proposed by the Department of Corrections, Unified Judicial System, and Department of Social Services, and recommend any additional measures needed to identify outcomes in the juvenile justice system;

(3) Review performance measures and outcome measures submitted semiannually by the Department of Corrections, Unified Judicial System, and Department of Social Services pursuant to §§ 26-8D-4, 26-8D-12, 26-8D-15, 26-8D-16, 26-8D-19, and 26-8D-20;

(4) Review efforts by the Department of Social Services to ensure delivery of treatment in rural areas and related performance measures, and statewide availability of evidence-based programs and practices involving cognitive behavioral health and family therapy programs for justice-involved youth;

(5) Assess implementation and infrastructure to support the sustainability and fidelity of evidence-based juvenile justice programs, including resources for staffing;

~~(5)~~(6) Track progress and make recommendations to improve outcomes for Native American children in the juvenile justice system ~~in accordance with §§ 26-8D-5 and 26-8D-6~~;

~~(6)~~(7) Review the payments of the diversion incentive program to counties, pursuant to § 26-8D-2, ~~payments from the juvenile justice detention cost-sharing fund pursuant to § 26-8D-24,~~ and performance-based reimbursement payments to group care and residential treatment centers pursuant to §§ 26-8D-17 and 26-8D-18; ~~and~~

(8) Review training related to juvenile justice for educators, law enforcement, probation, attorneys, corrections, program providers, and judges;

(9) Review proven truancy and diversion models and best practices and make recommendations for statewide implementation; and

~~(7)~~(10) Prepare and submit an annual summary report of the performance and outcome measures that are part of this chapter and any recommendations for improvements related to juvenile justice to the Legislature, Governor, and Chief Justice. ~~The report shall include any recommendations for improvement related to chapter 152 of the 2015 Session Laws.~~

Section 2. That § 26-8D-8 be AMENDED:

26-8D-8. The Juvenile Justice Oversight Council is created for the purpose of providing an independent review of the state juvenile justice system and providing recommendations to the Legislature, Governor, and Chief Justice. The oversight council ~~shall consist~~ consists of the following ~~twenty~~ nineteen members:

(1) The Governor shall appoint the following ~~seven~~ six members:

(a) A representative from the Department of Corrections;

(b) A representative from the Department of Social Services;

~~(c) A representative who is a state's attorney;~~

~~(d)~~(c) A representative from a youth care provider;

~~(e)~~(d) A representative from the Department of Tribal Relations;

(e) A member of law enforcement; and

(f) One at-large member;

~~(f) Two at-large members;~~

(2) The Chief Justice shall appoint the following six members:

(a) A ~~representative who is a criminal~~ juvenile justice defense attorney;

(b) ~~A representative who is a judge; and~~Two circuit court judges;

(c) ~~Four at-large members~~A juvenile court services officer;

(d) A representative from the State Court Administrator's Office; and

(e) One at-large member;

(3) The ~~majority leader~~ president pro-tempore of the Senate shall appoint the following ~~three~~ two ~~members~~Senators:

(a) ~~Two legislative members of the Senate, one from each political party~~A member of the Senate Judiciary Committee; and

(b) ~~One at-large member~~One other member of the Senate;

(4) The ~~majority leader~~ speaker of the House of Representatives shall appoint the following ~~three~~ two ~~members~~Representatives:

(a) ~~Two legislative members of the House of Representatives, one from each political party~~A member of the House Judiciary Committee; and

(b) ~~One member who is a county commissioner~~One other member of the House of Representatives; ~~and~~

(5) The South Dakota Superintendent's Association shall appoint one representative from a large school district and one representative from a small school district; and

~~(5)~~(6) The attorney general shall appoint one ~~member~~ state's attorney.

The oversight council shall select a chair and a vice chair every two years. Appointed members shall serve two-year terms and may be reappointed.

Signed March 8, 2023

Chapter 89

(Senate Bill 2)

An Act to revise Department of Corrections reporting requirements concerning abuse and neglect of individuals in private contracted facilities.

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

Section 1. That § 26-11A-33.1 be AMENDED:

26-11A-33.1. The secretary of the Department of Corrections shall compile a confidential report of all allegations of abuse and neglect of individuals under the jurisdiction of the Department of Corrections within private contracted facilities. ~~and the report shall be provided on a semi-annual basis to the Government Operations and Audit Committee.~~ The secretary shall provide the report to the Government Operations and Audit Committee no later than July thirty-first of each calendar year.

Signed February 1, 2023

MENTALLY ILL PERSONS

Chapter 90
(Senate Bill 7)

An Act to clarify emergency commitments of severely mentally ill persons by appropriate regional facilities.

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

Section 1. That § 27A-10-19 be AMENDED:

27A-10-19. If any person presents to a facility licensed by the state as a hospital or designated as an appropriate regional facility, other than the Human Services Center, and after an examination by a qualified mental health professional it is determined that the person is severely mentally ill and in such condition that immediate intervention is necessary to protect the person from physical harm to self or others, the qualified mental health professional may initiate a twenty-four -hour hold on the person and retain the person at the hospital or appropriate regional facility for purposes of observation and emergency treatment. The hospital, the appropriate regional facility, or the qualified mental health professional shall notify the chair of the county board of mental illness of the twenty-four--hour hold. The qualified mental health professional shall petition for commitment of the person according to §§ 27A-10-1 and 27A-10-4. The person shall be afforded rights according to § 27A-10-5. If a petition for emergency commitment pursuant to § 27A-10-1 is not filed within twenty-four hours, the person ~~shall~~ must be released.

Signed February 9, 2023

DEVELOPMENTALLY DISABLED PERSONS

Chapter 91

(Senate Bill 9)

An Act to modify discharge notice procedures applicable to developmentally disabled persons.

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

Section 1. That § 27B-3-46 be AMENDED:

27B-3-46. The director, based upon the recommendation of the person's interdisciplinary team, may at any time discharge a voluntarily admitted person. If a person with a developmental disability was voluntarily admitted by a parent or guardian, the director shall notify the parent or guardian of the discharge ~~ten days~~ prior to the person's release, in accordance with 42 C.F.R. § 483.440(b)(4)(ii), as of January 1, 2023, and shall notify the parent or guardian of other supports and services available in an alternative setting.

Signed February 22, 2023

Chapter 92

(House Bill 1174)

An Act to provide for appropriate civil commitment of certain persons.

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

Section 1. That a NEW SECTION be added to title 27B:

Any person with a felony sexual offense charge that has been dismissed pursuant to § 23A-10A-14, due to a developmental disability as defined in § 27B-1-18, is subject to civil commitment proceedings in accordance with this Act.

Section 2. That a NEW SECTION be added to title 27B:

The state's attorney prosecuting any felony sexual offense, which charge was dismissed pursuant to § 23A-10A-14 due to a developmental disability as defined in § 27B-1-18, may, within thirty days after the dismissal, file a petition for civil commitment of the person charged in the circuit court that dismissed the charge. The petition must allege the criteria for commitment, as set forth in section 8 of this Act, and must include facts supporting the allegations.

Section 3. That a NEW SECTION be added to title 27B:

Within ten days of the filing of a petition for civil commitment pursuant to this Act, the court shall appoint and order a licensed psychologist or psychiatrist to conduct a psychiatric or psychological evaluation of the person whose condition is the subject of the petition. The licensed psychologist or psychiatrist shall conduct the examination and prepare a report within fifteen days of receipt of the written notice from the court. The report must contain the information set forth in section 4 of this Act. The person has the right to obtain an additional examination paid for by the county in which the action is venued. Any report from an additional examination may be placed in evidence. The person must reimburse the county for the reasonable expense of the additional examination, unless the person is

indigent. The county may file a lien for the cost of the additional examination and report upon the person's real and personal property.

Section 4. That a NEW SECTION be added to title 27B:

The court-ordered report required under section 3 of this Act must contain:

(1) Any report submitted to the court as part of a mental competency proceeding under chapter 23A-10A;

(2) An evaluation of the person's mental, physical, and emotional status, and a review of the person's social and educational history;

(3) Any other information the examiner believes to be relevant;

(4) Whether the person's developmental disability, having rendered the person incompetent to proceed under chapter 23A-10A, makes it:

(a) Seriously difficult for the person to control their behavior;

(b) Likely that the person will commit other sexual offenses; and

(c) Necessary or advisable for the person to receive appropriate supports or services, or the person needs and is likely to benefit from treatment; and

(5) Whether the person is a danger to themselves or others due to the developmental disability that rendered the person incompetent to proceed under chapter 23A-10A.

If any report submitted to the court indicates that the person has serious difficulty controlling their behavior and is likely to commit other sexual offenses, the court must hold a hearing to determine whether the person is to be involuntarily committed. If no report submitted to the court indicates that the person has serious difficulty controlling their behavior and is likely to commit other sexual offenses, the petition must be dismissed.

Section 5. That a NEW SECTION be added to title 27B:

At a hearing ordered pursuant to section 4 of this Act, the person whose condition is the subject of the hearing shall be represented by counsel and, if the person is financially unable to obtain adequate representation, the court must appoint counsel for the person. The person has the right to appear personally, to subpoena witnesses on the person's behalf, to confront and cross-examine witnesses, and to present evidence. The person has the right to testify but may not be compelled to testify. If the person chooses not to appear, the person's attorney must state on the record that the person has been informed of the hearing and of the right to appear and chooses not to exercise this right. Documentation of the reasons for the person's decision is not required. If the person is receiving treatment at the time of hearing, the person’s provider must take all reasonable precautions to ensure that, at the time of the hearing, the person is not so under the influence of, or so affected by, drugs, medication, or other treatment or interventions, as to be hampered in preparing for or participating in the hearing. The court may exclude any person not necessary for the conduct of the proceedings from the hearings, except any person requested to be present by the person who is the subject of the hearing.

Section 6. That a NEW SECTION be added to title 27B:

In proceedings under this Act, the sheriff is allowed the same fee as for

like services in other cases. Any witness is allowed the same fees as a witness in other cases.

Section 7. That a NEW SECTION be added to title 27B:

The sections of title 15 relating to civil practice and procedure in the circuit courts shall apply to any hearing pursuant to this Act. If not otherwise submitted during the hearing, the court may take judicial notice of any other case against the person whose condition is the subject of the hearing, involving sexual offenses, and may order any additional appropriate examination or investigation.

Section 8. That a NEW SECTION be added to title 27B:

At a hearing ordered pursuant to section 4 of this Act, the court shall determine whether there is clear and convincing evidence that:

(1) The person committed one or more felony sexual offenses;

(2) The person's developmental disability, having rendered the person incompetent to proceed under chapter 23A-10A, makes it:

(a) Seriously difficult for the person to control their behavior;

(b) Likely that the person will commit other sexual offenses; and

(c) Necessary or advisable for the person to receive appropriate supports or services, or the person needs and is likely to benefit from treatment; and

(4) Whether the person is a danger to themselves or others due to the developmental disability that rendered the person incompetent to proceed under chapter 23A-10A.

If the court, through written findings of fact and conclusions of law, finds all the above criteria are met, the court must issue an order involuntarily committing the person to the Department of Human Services for appropriate placement. If the person refuses to comply with this order, the court may direct law enforcement to take the person into protective custody.

Section 9. That a NEW SECTION be added to title 27B:

The court shall review any commitment order entered pursuant to section 8 of this Act and accompanying information at least annually to make a determination of the continued need and supporting justification for commitment. Prior to the annual review, but not less than thirty days prior to the anniversary date of the commitment order, the facility providing services to the person shall report to the committing court regarding the person's supports, services, or treatment and progress. If the facility is separate from the Department of Human Services, the report must also be served on the department. Following ten days' notice to the person, the person’s attorney, the department, and the facility providing services to the person if separate from the department, the court shall hold a review hearing. The review hearing must include participation by the state's attorney, the department, the facility providing services to the person if separate from the department, and the person's attorney. The rights and procedures applicable during an initial commitment hearing are applicable to a review hearing. A petition pursuant to section 3 of this Act need not be filed. At the conclusion of the review hearing, the court may issue an order of continued commitment or immediately discharge the person from involuntary commitment if the conditions in section 8 of this Act justifying commitment no longer exist.

Section 10. That a NEW SECTION be added to title 27B:

The person shall have the same rights and privileges during a review hearing as established under section 5 of this Act.

Section 11. That a NEW SECTION be added to title 27B:

The director of the South Dakota Developmental Center, or the director of any other developmental disability community service provider, as applicable, shall discharge any involuntarily committed person if the director determines that the person no longer meets the commitment criteria under section 8 of this Act. The director of the discharging entity shall immediately notify the court who issued the commitment order and the state's attorney who filed the commitment proceeding that the person no longer meets commitment criteria and is being discharged. Nothing in this section precludes any person or the person's legal representative from subsequently seeking admission to a program on a voluntary basis.

Section 12. That a NEW SECTION be added to title 27B:

The provisions of § 27B-7-49 apply to commitments under this Act.

Section 13. That a NEW SECTION be added to title 27B:

Any other right, responsibility, or authority given to a person committed or the Department of Human Services under this title is applicable to a person committed under this Act.

Signed March 23, 2023

EDUCATION

Chapter 93
(House Bill 1046)

An Act to provide free tuition at Board of Technical Education institutions for children or spouses of members of the South Dakota National Guard disabled or deceased in the line of duty.

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

Section 1. That § 13-55-10 be AMENDED:

13-55-10. Any resident of this state who is less than twenty-five years of age and whose parent has died or has sustained a total disability, permanent in nature, resulting from duty as a member of the South Dakota National Guard, while on state or federal active duty or any authorized training duty, is entitled to tuition without cost and is entitled to attend any course or courses of study in any state educational institution under the control and management of the Board of Regents or the Board of Technical Education. Any person who is a resident of this state whose spouse has died or has sustained a total disability, permanent in nature, resulting from duty as a member of the South Dakota National Guard, while on state or federal active duty or any authorized training duty, is entitled to

tuition without cost and is entitled to attend any course or courses of study in any state educational institution under the control and management of the Board of Regents or the Board of Technical Education.

The application and receipt of the benefits of this section are governed by the provisions of §§ 13-55-6 to 13-55-9, inclusive.

Signed March 2, 2023

PUBLIC WELFARE AND ASSISTANCE

Chapter 94

(Senate Bill 28)

An Act to revise and repeal obsolete provisions related to the Department of Social Services.

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

Section 1. That § 1-36-27 be AMENDED:

1-36-27. The Human Services Center, Yankton, ~~created by chapter 1-36A~~ is hereby transferred from the Department of Human Services to the ~~Mental Health Division,~~ Department of Social Services. The secretary of the Department of Social Services shall perform the functions of the secretary of the Department of Human Services~~,~~ relating to the Human Services Center, Yankton.

Section 2. That § 28-1-82 be AMENDED:

28-1-82. ~~Any~~A person ~~who knowingly~~is guilty of unauthorized acquisition or transfer of Supplemental Nutrition Assistance Program benefits if the person knowingly:

(1) Acquires, purchases, possesses, or uses any ~~food stamp~~ Supplemental Nutrition Assistance Program EBT card to obtain ~~food stamp~~ Supplemental Nutrition Assistance Program benefits that the person is not entitled to;

(2) Transfers, sells, trades, gives, or otherwise disposes of any ~~food stamp~~ Supplemental Nutrition Assistance Program EBT card to another person not entitled to receive or use it in exchange for anything of value;

(3) Acquires, purchases, possesses, or uses any eligible goods purchased with a ~~food stamp~~ Supplemental Nutrition Assistance Program EBT card that the person is not entitled to; or

(4) Transfers, sells, trades, gives, or otherwise disposes of any eligible goods purchased with a ~~food stamp~~ Supplemental Nutrition Assistance Program EBT card to another person not entitled to receive it in exchange for anything of value~~;~~

~~is guilty of unauthorized acquisition or transfer of food stamp benefits~~.

Section 3. That § 28-1-83 be AMENDED:

28-1-83. Any person convicted of an offense under ~~§~~ subdivision 28-1-82(1) or (2) ~~for food stamp benefits~~ with ~~an~~ a Supplemental Nutrition Assistance Program EBT card value of one thousand dollars or less is guilty of a Class 1 misdemeanor. Any person convicted of an offense under ~~§~~ subdivision 28-1-82(1) or (2) ~~for food stamp benefits~~ with ~~an~~ a Supplemental Nutrition Assistance Program EBT card value of more than one thousand dollars is guilty of a Class 6 felony. Amounts involved in the acquisition or transfer of EBT cards in violation of ~~§~~ subdivisions 28-1-82(1) and (2), committed pursuant to one scheme or course of conduct in any twelve-month period, may be aggregated in determining the degree of the offense. Any person convicted of an offense under ~~§~~ subdivision 28-1-82(3) or (4) is guilty of a Class 1 misdemeanor.

Section 4. That § 28-1-84 be AMENDED:

28-1-84. As used in §§ 28-1-82 to 28-1-84, inclusive, the term~~, food stamp~~, Supplemental Nutrition Assistance Program EBT card, means any electronic benefit transfer card issued for the purchase of food pursuant to the Food Stamp Act of 1997, 7 U.S.C. §§ 2011 to 2029, inclusive, in effect on January 1, 2005. ~~As used in §§ 28-1-82 to 28-1-84, inclusive, the term,EBT, means electronic benefit transfer.~~

Section 5. That § 28-12-1 be AMENDED:

28-12-1. The Department of Social Services may enter into agreements and contracts with the ~~United States~~ federal government and its agencies and with the political subdivisions of this state for the purpose of participating in ~~The~~ the Food Stamp Act of 1964 (P.L. 88-525) and any related acts, as amended to January 1, 2004. The secretary of social services shall promulgate ~~reasonable and necessary~~ rules, pursuant to chapter 1-26, as required by the federal government for the administration of the ~~food stampprogram~~ Supplemental Nutrition Assistance Program in ~~South Dakota~~ this state. ~~Such~~ The rules ~~shall~~ must be in accordance with federal regulations implementing ~~The~~ the Food Stamp Act of 1964, as amended to January 1, 2004.

Section 6. That § 34-20A-2 be AMENDED:

34-20A-2. Terms used in this chapter mean:

(1) "Accredited prevention or treatment facility," a private or public agency meeting the standards prescribed in § 34-20A-27 or a private or public agency or facility surveyed and accredited by the Joint Commission; an Indian Health Service's quality assurance review under the Indian Health Service Manual, Professional Standards-Alcohol/Substance Abuse; or the Commission on Accreditation of Rehabilitation Facilities; or the Council on Accreditation; under the drug and alcohol treatment standards incorporated and adopted by the ~~division~~ department in rules promulgated pursuant to chapter 1-26, if proof of the accreditation, with accompanying recommendations, progress reports, and related correspondence are submitted to the ~~division~~ department in a timely manner;

(2) "Addiction counselor," a person licensed or certified as an addiction counselor by the South Dakota Board of Addiction and Prevention Professionals;

(3) "Alcoholic," a person who habitually lacks self-control as to the use of alcoholic beverages, or uses alcoholic beverages to the extent that the person's health is substantially impaired or endangered or the person's

social or economic function is substantially disrupted;

(4) "Department," the Department of Social Services;

(5) "Designated prevention or treatment facility," an accredited agency operating under the direction and control of the state or providing services under this chapter through a contract with the ~~division~~ department, or a treatment ~~facilities~~ facility operated by the federal government that may be designated by the ~~division~~ department without accreditation by the state;

~~(6) "Division," the Division of Behavioral Health within the department;~~

~~(7)~~ "Drug abuser," a person who habitually lacks self-control as to the use of controlled drugs or substances as defined in § 34-20B-3 to the extent that the person's health is substantially impaired or endangered or that the person's social or economic function is substantially disrupted;

~~(8)~~(7) "Incapacitated by alcohol or other drugs," that a person, as a result of the use of alcohol or other drugs, is unconscious, or the person's judgment is otherwise so impaired that the person is incapable of realizing and making a rational decision with respect to the person's need for treatment;

~~(9)~~(8) "Incompetent person," a person who has been adjudged incompetent by the circuit court;

~~(10)~~(9) "Intoxicated person," a person who demonstrates diminished mental or physical capacity while under the influence of alcohol or other drugs;

~~(11)~~(10) "Prevention," purposeful activities designed to promote personal growth of a person and strengthen the aspects of the community environment that are supportive to the person in order to preclude, prevent, or impede the development of alcohol or other drug misuse and abuse;

~~(12)~~(11) "Secretary," the secretary of the Department of Social Services;

~~(13)~~(12) "Treatment," the broad range of emergency, outpatient, intermediate, and inpatient services and care, including diagnostic evaluation, that may be extended to a person experiencing problems as a result of the use of alcohol or other drugs.

Section 7. That § 34-20A-18 be AMENDED:

34-20A-18. The ~~division~~ department may solicit and accept for use any gift of money or property made by will or otherwise, and any grant of money, services, or property from the federal government, the state~~,~~ or any political subdivision thereof, or any private source, and may do all things necessary to cooperate with the federal government or any of its agencies in ~~making an application~~ applying for any grant.

Section 8. That § 34-20A-27 be AMENDED:

34-20A-27. The ~~division~~ department shall establish reasonable standards and requirements for accredited prevention or treatment facilities. The ~~division~~ department may fix the fees to be charged by the ~~division~~ department for the required inspections. The ~~division may adopt~~ department shall promulgate rules, pursuant to chapter 1-26, in regard to the following standards and requirements:

(1) Management and administration, including fiscal control, program planning, and evaluation;

(2) Physical facilities and quality control;

(3) Services administration, including client rights, confidentiality, treatment planning, and statistical reporting;

(4) Service components, including: inpatient/ and residential, outpatient treatment, social detoxification, transitional care, custodial care, counseling and support services, and prevention services;

(5) Staff qualifications; and

(6) Such otherOther standards as are necessary for the safety and health of clients and patients.

Section 9. That § 34-20A-34 be AMENDED:

34-20A-34. The division department may acquire, hold, or dispose of real property or any interest in real property, and construct, lease, or otherwise provide facilities for the prevention of alcohol and drug abuse and facilities for the treatment of those persons suffering from alcohol and drug abuse, and for intoxicated persons.

Section 10. That § 34-20A-44 be AMENDED:

34-20A-44. The division department shall inspect accredited prevention or treatment facilities to insure ensure compliance with this chapter. For purposes of inspection, the division department shall have access to the facility and its records at reasonable times and in a reasonable manner. This section does not apply to facilities accredited pursuant to accreditation by the Joint Commission, the Commission on Accreditation of Rehabilitation Facilities, an Indian Health Service's quality assurance review under the Indian Health Service Manual, Professional Standards-Alcohol/Substance Abuse, or the Council on Accreditation.

Section 11. That § 34-20A-44.1 be AMENDED:

34-20A-44.1. If a public or private agency or facility is considered to beThe department retains the right of access to all facility premises and relevant records to monitor compliance or investigate complaints brought against an accredited prevention or treatment facility by reason of compliance with accreditation by the Joint Commission, the Commission on Accreditation of Rehabilitation Facilities, an Indian Health Service's quality assurance review under the Indian Health Service Manual, Professional Standards-Alcohol/Substance Abuse, or the Council on Accreditation, as described in § 34-20A-2, the division retains the right of access to all facility premises and relevant records to monitor compliance or investigate complaints brought against the facility that is not required to be inspected by the department under § 34-20A-44.

Section 12. That § 34-20A-51 be AMENDED:

34-20A-51. Subject to rules adopted by the division department, the administrator in charge of an accredited treatment facility may determine who shall be is admitted for treatment. If a person is refused admission to the facility, the administrator, subject to rules adopted by the division department, shall refer the person to another treatment facility for treatment if possible and appropriate.

Section 13. That § 34-20A-66.1 be AMENDED:

34-20A-66.1. Payment for treatment under emergency detainment, or under protective custody pursuant to § 34-20A-55 if emergency detainment is not required, may be assessed to the individual, to a legally responsible relative or guardian, to the county of residence if indigent, or billed to the division department through contract with an approved treatment facility. Any payment for emergency

detainment to the Human Services Center is subject to the requirements of chapter 27A-13.

Section 14. That § 34-20A-89 be AMENDED:

34-20A-89. If an approved treatment facility provides treatment ~~of~~ to a person who was involuntarily committed ~~is provided by an~~, the approved treatment facility~~,~~ may assess the payment for treatment ~~may be assessed~~ to the ~~individual~~ person, to legally responsible relatives, to a conservator, or to the county of residence if indigent, or ~~billed to~~ may bill the ~~division~~ department through contract with the approved treatment facility. ~~The payment for~~

If an accredited treatment facility provides treatment ~~of~~ to a person who was involuntarily committed ~~to an~~, the accredited treatment facility shall ~~be assessed~~ assess payment to the individual, legally responsible relatives, or a conservator.

The payment for treatment of a person involuntarily committed to the Human Services Center is subject to the requirements of chapter 27A-13.

Section 15. That § 28-6A-4 be REPEALED:

~~The secretary of the Department of Social Services shall, in cooperation with the secretary of health, provide for or coordinate the development of programs for the prevention of chronic renal diseases.~~

Section 16. That § 28-6A-5 be REPEALED:

~~The secretary of the Department of Social Services shall in cooperation with the secretary of health, institute and carry on an educational program among physicians, hospitals, public health departments, and the public concerning chronic renal failure requiring dialysis or transplant, including the dissemination of information and the conducting of educational programs concerning the causes and prevention of chronic renal diseases and the methods for the care and treatment of persons suffering from these diseases.~~

Section 17. That § 28-6A-11 be REPEALED:

~~The secretary of the Department of Social Services may make agreements with other agencies to use money made available by legislative appropriation to match other funds including, but not limited to funds provided by vocational rehabilitation and Title XIX of the Social Security Act, to best carry out the intent of the program.~~

Section 18. That § 28-6B-2 be REPEALED:

~~Within thirty days after July 1, 2016, the Department of Social Services shall submit a state plan amendment or waiver for approval by the federal Centers for Medicare and Medicaid Services to provide prenatal coverage under the medical assistance program in accordance with this chapter.~~

Section 19. That § 34-20A-40 be REPEALED:

~~The division in the adoption of standards and in the promulgation of other rules and regulations shall be governed by the provisions of chapter 1-26.~~

Signed February 9, 2023

UNIFORM PROBATE CODE

Chapter 95
(House Bill 1240)

An Act to amend provisions addressing guardianships and conservatorships.

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

Section 1. That § 29A-5-304 be AMENDED:

29A-5-304. Any individual who has sufficient capacity to form a preference may at any time nominate any individual or entity to act as his guardian or conservator. The nomination may be made in writing, by an oral request to the court, or may be proved by any other competent evidence. The court shall appoint the individual or entity so nominated if the nominee is otherwise eligible to act and would serve in the best interests of the protected person. If a person alleged to be in need of protection has designated an individual to serve as guardian or conservator under a validly executed legal instrument, including a power of attorney, and the court does not appoint the designated individual, the court shall issue written findings of fact and conclusions of law as to why the designated individual was not appointed.

In the absence of an effective nomination by the protected person, the court shall appoint as guardian or conservator the individual or entity that will act in the protected person's best interests. In making that appointment, the court shall consider the proposed guardian's or conservator's geographic location, familial or other relationship with the protected person, ability to carry out the powers and duties of the office, commitment to promoting the protected person's welfare, any potential conflicts of interest, and the recommendations of the spouse, the parents or other interested relatives, whether made by will or otherwise. The court may appoint more than one guardian or conservator and need not appoint the same individual or entity to serve as both guardian and conservator.

Section 2. That § 29A-5-309 be AMENDED:

29A-5-309. The court shall appoint an attorney for the person alleged to need protection, either upon the filing of the petition or at any time thereafter, if requested by the person alleged to need protection, if the person expresses a desire to contest the petition, or if the court determines that an appointment is otherwise needed to protect the person's interests. In appointing an attorney, the court shall consider any known preferences of the person alleged to need protection.

If the person alleged to need protection is not or will not be represented by an attorney, the court shall either appoint a court representative to make an investigation and recommendation concerning the relief requested in the petition, or shall order the person alleged to need protection to attend the hearing on the petition.

If the basis of the petition is that the person alleged to need protection is an absentee, the court shall appoint an attorney if the court determines that an appointment is needed to protect the person's interests, but the court need not appoint a court representative or order attendance at the hearing.

In addition to any court-ordered evaluation, a person alleged to need protection who is contesting a petition may obtain an evaluation at the person's own expense to be completed by a licensed healthcare professional of the person's choice in accordance with § 29A-5-306, which must be included in the file and considered by the court.

Section 3. That § 29A-5-403 be AMENDED:

29A-5-403. A guardian of a protected person shall file a report with the court within sixty days following the first anniversary of the appointment and:

(1) At least annually thereafter;

(2) When the court orders additional reports to be filed;

(3) When the guardian resigns or is removed; and

(4) When the guardianship is terminated unless the court determines that there is then no need therefor.

A guardian may elect to file a periodic report on a calendar-year basis. However, in no event may such a report cover a period of more than one year. A calendar-year report shall be filed with the court no later than April fifteenth of the succeeding year.

A report shall briefly state:

(1) The current mental, physical and social condition of the protected person;

(2) The living arrangements during the reporting period;

(3) The medical, educational, vocational and other professional services provided to the protected person and the guardian's opinion as to the adequacy of the protected person's care;

(4) A summary of the guardian's visits with and activities on the protected person's behalf;

(5) If the protected person is institutionalized, whether the guardian agrees with the current treatment or habilitation plan;

(6) A recommendation as to the need for continued guardianship and any recommended changes in the scope of the guardianship;

(7) Any other information requested by the court or useful in the opinion of the guardian;

(8) The compensation requested and the reasonable and necessary expenses incurred by the guardian; and

(9) The date on which the guardian completed the training curricula required pursuant to § 29A-5-119.

A guardian shall mail a copy of the report to the individuals and entities specified in § 29A-5-410 no later than fourteen days following its filing.

~~Any~~ Within sixty days of the filing of the annual report, any interested person may request a hearing on the report. The court may order the guardian to attend the hearing on the report on the court's own motion or on the petition of any interested person. A report of the guardian may be incorporated into and made a part of the accounting of the conservator if the same individual holds both appointments.

Section 4. That § 29A-5-408 be AMENDED:

29A-5-408. A conservator shall file an accounting with the court within sixty days following the first anniversary of the appointment and:

(1) At least annually thereafter;

(2) When the court orders additional accounts to be filed;

(3) When the conservator resigns or is removed; and

(4) When the conservatorship is terminated.

A conservator may elect to file a periodic accounting on a calendar-year basis. However, in no event may such an accounting cover a period of more than one year. A calendar-year report shall be filed with the court no later than April fifteenth of the succeeding year.

An accounting shall include:

(1) A listing of the receipts, disbursements, and distributions from the estate under the conservator's control during the period covered by the account;

(2) A listing of the estate;

(3) The services being provided to the protected person;

(4) The significant actions taken by the conservator during the reporting period;

(5) A recommendation as to the continued need for conservatorship and any recommended changes in the scope of the conservatorship;

(6) Any other information requested by the court or useful in the opinion of the conservator;

(7) The compensation requested and the reasonable and necessary expenses incurred by the conservator;

(8) An annual inventory of any item of tangible personal property with a value of two thousand five hundred dollars or more which has come into the conservator's possession or knowledge for the minor or protected person; and

(9) The date on which the conservator completed the training curricula required pursuant to § 29A-5-119.

A conservator shall mail a copy of the accounting to the individuals and entities specified in § 29A-5-410 no later than fourteen days following its filing. A conservator shall notify all persons receiving the accounting that they must present written objections within ~~fourteen~~ sixty days after receipt or be barred from thereafter objecting.

Upon filing an objection, any interested person may request a hearing on the accounting. The court may order the conservator to attend the hearing on an account on the court's own motion or on the petition of any interested person. An accounting by a conservator may be incorporated into and made a part of the report of the guardian if the same individual holds both appointments.

Subject to written objection, appeal, or vacation within the time permitted, an order allowing an account of a conservator adjudicates as to liabilities concerning all matters disclosed in the account.

Section 5. That chapter 29A-5 be amended with a NEW SECTION:

The court must grant an interested person access to some or all of a protected person's medical or financial records if, on the motion of the interested person, the court finds access is in the best interest of the protected person. If the court does not grant access, the court must issue written findings of fact and conclusions of law as to why the medical or financial records access was not granted.

Section 6. That chapter 29A-5 be amended with a NEW SECTION:

If the court receives any verbal or written communication from a protected person alleging that a guardian or conservator is abusing or neglecting the protected person or is engaging in self-dealing with respect to the protected person's property, or the guardianship or conservatorship is no longer necessary and should be terminated, and the communication contains credible and substantial evidence, which in context of the entire record, supports the allegation, the court must treat the communication as a petition under § 29A-5-504.

Signed March 23, 2023

HIGHWAYS AND BRIDGES

Chapter 96

(Senate Bill 150)

An Act to add provisions regarding construction and maintenance of livestock pipelines on highways.

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

Section 1. That § 31-26-25 be AMENDED:

31-26-25. Any person desiring to construct or lay a water pipeline over, across, or under public highways, except state trunk system highways, for the purpose of providing rural water service, or providing water to livestock on property that is taxed as agricultural land ~~in the State of South Dakota shall~~, must make application to the board of county commissioners as ~~is~~ provided in this chapter. ~~However, the application need not indicate the point or points to which the water pipeline is to be constructed nor the route thereof.~~ Upon application, the board of county commissioners may grant countywide authorization for the construction of rural water service lines or lines that water livestock, subject to the provisions of this chapter. The board of county commissioners may enact ordinances governing pipelines and grant authorization to the highway superintendent to approve rural water service lines without application to the board. County approval of a pipeline authorized under this section creates no ownership interest and is a temporary grant to utilize the highway.

Section 2. That § 31-26-26 be AMENDED:

31-26-26. When any highway along or under which ~~a rural water pipeline~~ a pipeline approved pursuant to § 31-26-25 has been constructed ~~shall be~~ is

changed, removal~~,~~ or relocation of ~~such~~ the pipeline ~~shall~~ is not ~~be~~ necessary if the owner or beneficiary of ~~such~~ the pipeline and the board of county commissioners ~~shall~~ agree in writing that ~~such~~ removal or relocation is not necessary. However, removal or relocation of a livestock pipeline is required if the board determines it is necessary to improve the highway or otherwise remove the pipeline for any county purpose.

Section 3. That chapter 31-26 be amended with a NEW SECTION:

An owner or operator of a livestock pipeline approved pursuant to § 31-26-25 may, at any time, submit a request for the relocation, removal, or change of a livestock pipeline to the highway superintendent. Upon approval of the highway superintendent, the owner or operator may, at their own cost and in accordance with any conditions set by the highway superintendent, relocate, remove, or change the livestock pipeline.

Section 4. That chapter 31-26 be amended with a NEW SECTION:

Nothing contained in § 31-26-25 or 31-26-26 may be construed to exempt from liability a person who owns, operates, or benefits from a livestock pipeline, for any damage or injury sustained by reason of the faulty or negligent construction or maintenance of a livestock pipeline. A county is entitled to recover, from any owner, operator, or beneficiary of a livestock pipeline, the amount necessary to spend in the removal or repair of the portion of highway or right of way impacted by the faulty or negligent construction or maintenance, including a reasonable amount for attorney's fees. The action may be commenced in any court in the county having jurisdiction.

Signed March 2, 2023

Chapter 97

(Senate Bill 145)

An Act to revise provisions pertaining to township eligibility for the rural access infrastructure fund.

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

Section 1. That § 31-34-4 be AMENDED:

31-34-4. Applications for use of moneys allocated to a fund pursuant to this chapter must be submitted to the board of county commissioners on or before October thirty-first on forms prescribed by the association of county commissioners. The board of county commissioners shall award the moneys no later than the immediately following January fifteenth.

Applications from townships must be accompanied by a resolution approved by the township board of supervisors authorizing the application and any funding commitments made by the township. The township or county share is a minimum of twenty percent of the sum necessary to complete the project.

Applications for county secondary highways must be submitted by the county highway superintendent.

If a county declares a disaster, the deadline by which an application must

be submitted is waived, provided that the application meets the other requirements of this section.

Section 2. That § 31-34-6 be AMENDED:

31-34-6. A requesting township shall timely file the township small structure improvement plan, pursuant to § 31-34-7, with the county highway superintendent and an annual report, pursuant to § 8-10-30, in order to be eligible for the funds. Any township requesting use of rural access infrastructure moneys pursuant to this chapter shall meet at least one of the following requirements:

(1) Impose an annual property tax levy ~~of fifty cents per thousand~~, pursuant to § 10-12-28.2; or

(2) Impose a tax levy opt out pursuant to § 10-13-36.

Signed March 14, 2023

MOTOR VEHICLES

Chapter 98

(House Bill 1042)

An Act to update additional charges allowed for mailing decals and plates and to declare an emergency.

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

Section 1. That § 32-3A-5.2 be AMENDED:

32-3A-5.2. In addition to the registration fee required under § 32-3A-5, the department or county treasurer shall collect from the owner ~~one dollar~~ one dollar and fifty cents per decal or set of decals if a decal is sent to the owner through the mail. If the applicant requests that a decal be express mailed, the applicant shall pay the actual cost of postage and handling. ~~Any fees received by the~~ The county treasurer shall deposit any fees for mailing or expressing decals ~~shall be deposited by the treasurer~~ in the county general fund.

Section 2. That § 32-5-127 be AMENDED:

32-5-127. In addition to the registration fees required by this chapter, the department or county treasurer shall collect from the owner ~~one dollar~~ one dollar and fifty cents per decal or set of decals and ~~five dollars~~ seven dollars and fifty cents per license plate or set of plates when ~~decals and~~ plates are sent to the owner through the mail.

Section 3. That § 32-6B-21.1 be AMENDED:

32-6B-21.1. In addition to the license plate and decal fees assessed in §§ 32-6B-21, 32-6B-22.1, 32-6B-23, and 32-6B-36.3, the department shall collect from the dealer ~~one dollar~~ one dollar and fifty cents per decal or set of decals or ~~five dollars~~ seven dollars and fifty cents per license plate or set of plates if a decal or plate is sent to the dealer through the mail. If the dealer requests that the decal

or plate be express mailed, the dealer ~~shall~~ must pay the actual costs of postage and handling.

Section 4. That § 32-6C-7.1 be AMENDED:

32-6C-7.1. In addition to the license fees assessed in § 32-6C-7, the department shall collect from the dealer ~~one dollar~~ one dollar and fifty cents per decal if a decal is sent to the dealer through the mail. If the dealer requests that the decal be express mailed, the dealer ~~shall~~ must pay the actual costs of postage and handling.

Section 5. That § 32-7A-10.1 be AMENDED:

32-7A-10.1. In addition to the license fees assessed in § 32-7A-10, the department shall collect from the dealer ~~one dollar~~ one dollar and fifty cents per decal or ~~five dollars~~ seven dollars and fifty cents per license plate if a decal or plate is sent to the dealer through the mail. If the dealer requests that the decal or plate be express mailed, the dealer ~~shall~~ must pay the actual costs of postage and handling.

Section 6. That § 32-7B-10.1 be AMENDED:

32-7B-10.1. In addition to the license fees assessed in § 32-7B-10, the department shall collect from the dealer ~~one dollar~~ one dollar and fifty cents per decal if a decal is sent to the dealer through the mail. If the dealer requests that the decal be express mailed, the dealer ~~shall~~ must pay the actual costs of postage and handling.

Section 7. That § 32-9-3.1 be AMENDED:

32-9-3.1. Any motor vehicle or trailer owned and operated by a resident or a nonresident engaged in the harvest of agricultural products may be operated upon the highways, roads, and streets of this state upon payment of a seventy-five dollar fee. Payment of the fee ~~shall be~~ is evidenced by a permit provided by the department affixed in a conspicuous place on the vehicle as the department may require.

Each permit, which is valid for a calendar year, ~~shall~~ must be purchased from the county treasurer of any county through which the owner or operator may travel, or from an agent, patrol officer, motor carrier enforcement officer, or motor carrier inspector of the Department of Public Safety. If the applicant requests that the permit be mailed, the applicant ~~shall~~ must pay ~~one dollar~~ one dollar and fifty cents per permit sent to the owner through the mail. All fees collected shall be handled, accounted for, and distributed in the same manner as the other fees provided for in this chapter. A violation of this section is a Class 2 misdemeanor.

Section 8. That § 32-9-7 be AMENDED:

32-9-7. On receipt of an application under § 32-9-6 and payment of the commercial motor vehicle fee, required by this chapter, and upon satisfactory evidence that the applicant has complied with all laws, rules, and regulations of this state covering motor vehicles and motor carriers, the county treasurer or department shall issue to the applicant a receipt that identifies the motor vehicle, trailer, or semitrailer and shall assign a number to the vehicle. The number shall be endorsed upon the application and receipt. The county treasurer or department shall issue to the applicant a commercial motor vehicle certificate bearing the number. The certificate shall be placed and carried in the vehicle in a conspicuous place and is subject to examination upon demand by any officer of this state, county, or municipality. The county treasurer or department shall issue to the

applicant two commercial motor vehicle plates for each motor vehicle. Each county treasurer office shall be stocked with commercial license plates issued pursuant to this section and commercial trailer license plates issued pursuant to § 32-9-8.1. If the plates are mailed, the applicant ~~shall~~ must pay ~~five dollars~~ seven dollars and fifty cents per license plate or set of plates if the plate is sent to the owner through the mail, or ~~one dollar~~ one dollar and fifty cents per decal or set of decals if the decal is sent to the owner through the mail. If the applicant requests that the plate or decal be express mailed, the applicant ~~shall~~ must pay any costs for the express mailing service. Each plate ~~shall~~ must set forth the amount of gross weight in figures, and ~~shall~~ be in colors and designs for each classification specified in § 32-9-15. Each plate ~~shall~~ must be securely fastened to the front and rear end of each commercial motor vehicle in a conspicuous place. The county treasurer shall deposit in the county general fund any fees received for mailing or expressing a plate or sticker. ~~All fees received by the~~ The department shall deposit all fees received for mailing or expressing ~~of~~ the plates or stickers ~~shall be deposited by the department~~ in the state motor vehicle fund. A violation of this section is a Class 2 misdemeanor.

Section 9. That § 32-10-17 be AMENDED:

32-10-17. The administrator shall register the vehicles described and identified in an application pursuant to § 32-10-15 and shall issue a license plate or plates, or a vehicle registration card, or other suitable identification device, for each vehicle described in the application upon payment of the fees for registration and licensing and for the vehicle registration cards or other identification devices. A fee of three dollars ~~shall~~ must be paid for each card or device issued for each proportionally registered vehicle. The card ~~shall~~ must, in addition to the information required by chapter 32-5, identify the number of the license or other device issued for the proportionally registered vehicle and ~~shall~~ must be carried in the vehicle at all times or, in the case of a combination, in the vehicle supplying the motive power. For purposes of this section, the operator may provide proof in either paper or electronic format including a display of an electronic image on an electronic device. In addition to the registration fees, the department shall collect from the owner ~~five dollars~~ seven dollars and fifty cents per license plate or set of plates when a plate is sent to the owner through the mail, or ~~one dollar~~ one dollar and fifty cents per decal or set of decals if a decal is sent to the owner through the mail. If the applicant requests that the plate or decal be express mailed, the applicant ~~shall~~ must pay any costs for the express mailing service.

Section 10. That chapter 32-1 be amended with a NEW SECTION:

Mailing fees in chapters 32-3A, 32-5, 32-6B, 32-6C, 32-7A, 32-7B, 32-9, and 32-10 shall be reviewed by the Legislature every four years.

Section 11. Whereas, this Act is necessary for the support of the state government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

Signed March 14, 2023

Chapter 99

(Senate Bill 31)

An Act to create an off-road vehicle decal for non-residents visiting the state.

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

Section 1. That § 32-5-107 be AMENDED:

32-5-107. A person, in possession of either a title in his name or assigned to him or a bill of sale which lists him as the purchaser of the vehicle, may procure from any county treasurer a temporary permit ~~which~~ that allows movement of the motor vehicle on the highways of this state. The title or bill of sale shall be available for inspection by any peace officer if the vehicle is being moved. Mobile homes, manufactured housing units, and over-dimensional motor vehicles do not qualify for this permit to use the state's highways. The permit may be purchased for any period of from five to fifteen consecutive days at a fee of one dollar per day for each day the permit is requested. The minimum permit fee is five dollars. The fee is payable to the county treasurer at the time of purchase. All permit fees shall be forwarded monthly by the county treasurer to the ~~Department of Revenue~~ department. The secretary shall credit the fee to the state license plate special revenue fund for distribution under § 32-11-33. Only one permit ~~shall~~ may be issued yearly per motor vehicle.

No permit may be issued pursuant to this section for the temporary use of an off-road vehicle on the public highways of this state.

Section 2. That chapter 32-5 be amended with a NEW SECTION:

A non-resident owner of an off-road vehicle not currently registered for on-road use, that meets the requirements of § 32-20-13 and is brought into the state for noncommercial use on the public highways of this state, shall purchase a decal. The decal allows the off-road vehicle to be used on the public highways of this state. The decal is valid for one year from the date of purchase of the decal. The decal must be attached to the rear of the off-road vehicle in a location easily visible for inspection by any peace officer.

Section 3. That chapter 32-5 be amended with a NEW SECTION:

Application for the decal authorized by section 2 of this Act shall be made to the department or a county treasurer. The application shall be on a form approved by the secretary and contain the names of all owners, each owner's social security number, a description of the off-road vehicle with vehicle identification or serial numbers, and proof of ownership of the off-road vehicle. The application shall be accompanied by a fifty-dollar fee. If the decal is mailed, the applicant shall include the mailing fee imposed pursuant to § 32-5-127.

Section 4. That chapter 32-5 be amended with a NEW SECTION:

If the application required by section 3 of this Act is processed solely by the department, the fee shall be deposited into the state motor vehicle fund. If the application is processed by a county treasurer and reviewed by the department,

half of the fee shall be deposited in the state motor vehicle fund and half of the fee shall be deposited into the county general fund.

Signed February 27, 2023

Chapter 100

(Senate Bill 159)

An Act to revise provisions regarding vehicle warranty claims.

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

Section 1. That § 32-6B-1 be AMENDED:

32-6B-1. Terms ~~as~~ used in this chapter mean:

(1) "Administrator," the administrator of the dealer licensing and inspection program of the Department of Revenue;

(2) "Auctioneer," a person who presides over a public auction where following an initial starting price, bids are taken from two or more people until a final bid or price is established for a motor vehicle;

(3) "Authorized emergency vehicle," any vehicle of a fire department and any ambulance and emergency vehicle of a municipal department or public service corporation that are designated or authorized by the Department of Public Safety or the Department of Health;

(4) "Broker," a person who, for a fee, commission, or other valuable consideration, arranges or offers to arrange a transaction involving the sale or exchange of vehicles, and who is not:

(a) A dealer or a bona fide agent or employee of a dealer;

(b) A representative or a bona fide agent or employee of a manufacturer; or

(c) At any point in the transaction the bona fide owner of the vehicle involved in the transactions;

(5) "Chassis cab," any incomplete motor vehicle, with a completed occupant compartment, that requires only the addition of cargo carrying, work performing, or load bearing components to perform the vehicle's intended function;

(6) "Community," the franchisee's area of responsibility as stipulated in the franchise or a minimum radius of ten miles around an existing dealership;

(7) "Component manufacturer," a person that manufactures or assembles parts, components, complete assemblies, or sub-assemblies for vehicles, which are separately warranted from the vehicles, and does not otherwise manufacture or assemble vehicles;

~~(7)~~(8) "Converter," a person who modifies or installs on previously assembled chassis special bodies or equipment that, when completed, form an integral part of the vehicle and that constitutes a major manufacturing alteration and who may issue a supplemental or secondary statement of origin;

~~(8)~~(9) "Demonstration," the noncommercial use of a dealer owned vehicle by any employee of the dealership for any purpose in the ordinary course of business relating to the sale of the vehicle within the trade or market area of the dealership or demonstration by any prospective buyer for a period of three days. The term includes vehicles donated by a dealership to a community or organization and used for a one-day parade or event;

~~(9)~~(10) "Department," the Department of Revenue;

~~(10)~~(11) "Emergency vehicle dealer," any person who converts or manufacturers authorized emergency vehicles and who, for commission or with intent to make a profit or gain, sells, exchanges, rents with option to purchase, offers, or attempts to negotiate a sale or exchange of new, or new and used authorized emergency vehicles, or who is engaged wholly or in part in the business of selling new, or new and used authorized emergency vehicles;

~~(11)~~(12) "Event," a fair, exposition, vehicle show, vehicle rally, or fishing tournament that is held once each year and lasts at least three days including any setup time but does not exceed fifteen days;

~~(12)~~(13) "Final stage manufacturer dealer," any person who assembles or installs on a previously assembled new motor vehicle chassis cab any special body or equipment that forms an integral part of the motor vehicle, constitutes a major manufacturing alteration, and completes the vehicle;

~~(13)~~(14) "Franchise," a written or oral agreement or contract between a franchisor and franchisee that fixes the legal rights and liabilities of the parties to the agreement or contract;

~~(14)~~(15) "Franchisee," person who receives vehicles from a franchisor under a franchise and who offers and sells the vehicles to the general public;

~~(15)~~(16) "Franchisor," any person engaged in the manufacturing or distribution of vehicles including any person who acts for the franchisor;

~~(16)~~(17) "Good faith," honesty in fact and the observance of reasonable, nondiscriminatory commercial standards of fair dealing in the trade;

~~(17)~~(18) "In-transit," the noncommercial use of a dealer owned vehicle by any employee of the dealership for travel to and from any service facility, detail shop, repair shop, gas station, car wash, dealer auction, another lot owned by the dealer, a supplemental lot, temporary special events lot, temporary supplemental lot, or any other location to facilitate a dealer trade;

~~(18)~~(19) "Manufacturer," a person who manufactures or assembles vehicles, including motor homes, and who issues the original or first manufacturer's statement of origin. The term includes a central or principal sales corporation through which it distributes its products to franchised dealers;

~~(19)~~(20) "Off-road vehicle," any self-propelled, two or more wheeled vehicle designed primarily to be operated on land other than a highway and includes any all terrain vehicle, dune buggy, and vehicle whose manufacturer's statement of origin or manufacturer's certificate of origin states that the vehicle is not for highway use;

~~(20)~~(21) "Public auction," a business that is open to the public where South Dakota titled motor vehicles are consigned, displayed, and auctioned to the highest bidder by an auctioneer;

~~(21)~~(22) "Sell-it-yourself lot," any space provided to a person for a fee to display that person's boat or vehicle for sale;

~~(22)~~(23) "Semitrailer," any vehicle of the trailer type, equipped with a kingpin assembly, designed and used in conjunction with a fifth wheel connecting device on a motor vehicle and constructed so that some part of its weight and that of its load rests upon or is carried by another vehicle;

~~(23)~~(24) "Supplemental lot," a physically separate location owned and maintained by a licensed dealer within the same county as the principal place of business;

~~(24)~~(25) "Trailer," any vehicle without motive power designed to be coupled to or drawn by a motor vehicle and constructed so that no part of its weight or that of its load rests upon the towing vehicle;

~~(25)~~(26) "Trailer dealer," any person who, for commission or with intent to make a profit or gain, sells, exchanges, rents with option to purchase, offers or attempts to negotiate a sale or exchange of new or used trailers, semitrailers or travel trailers or who is engaged in the business of selling new or used trailers, semitrailers or travel trailers whether or not the vehicles are owned by the person;

~~(26)~~(27) "Travel trailer," any trailer or semitrailer that provides as its primary purpose adequate, comfortable, temporary living quarters while on pleasure excursions or while touring for business, professional, educational or recreational purposes;

~~(27)~~(28) "Used vehicle dealer," any person who, for commission or with intent to make a profit or gain sells, exchanges, rents with option to purchase, offers or attempts to negotiate a sale or exchange of used vehicles or who is engaged in the business of selling used vehicles;

~~(28)~~(29) "Vehicle," any new or used automobile, truck, truck tractor, motorcycle, off-road vehicle, motor home, trailer, semitrailer or travel trailer of the type and kind required to be titled and registered under chapters 32-3 and 32-5, or required to be titled under chapter 32-20 except any manufactured home, used mobile home, moped, or snowmobile; and

~~(29)~~(30) "Vehicle dealer," any person who, for commission or with intent to make a profit or gain, sells, exchanges, rents with option to purchase, offers or attempts to negotiate a sale or exchange of new, or new and used vehicles, or who is engaged wholly or in part in the business of selling new, or new and used vehicles.

Section 2. That chapter 32-6B be amended with a NEW SECTION:

Except as provided in section 3 of this Act, a manufacturer or component manufacturer may not charge back to a vehicle dealer any warranty claim that has been paid and approved for any vehicle or any part, component, complete assembly, or subassembly for a vehicle if:

(1) The repair work was covered under the manufacturer's or component manufacturer's warranty;

(2) The repair work corrected the defective condition that needed to be repaired;

(3) The vehicle dealer provided documentation of the parts repaired and the process used to make the repairs; and

(4) The vehicle dealer performed the repair in accordance with reasonable written requirements of the manufacturer or component manufacturer, if the vehicle dealer was notified of the requirements before the claim arose

and if the requirements were in effect when the claim arose.

Section 3. That chapter 32-6B be amended with a NEW SECTION:

A manufacturer or component manufacturer may charge back a warranty claim if:

(1) The claim was false or fraudulent; or

(2) The repairs were not necessary to correct the defective condition under accepted standards of workmanship.

Section 4. That § 32-6B-58 be AMENDED:

32-6B-58. Every franchisor, component manufacturer, or manufacturer shall properly fulfill any warranty agreement and compensate, as set forth in § 32-6B-61, each of its vehicle dealers for labor and parts. The franchisor, component manufacturer, or manufacturer shall pay all claims made by a vehicle dealer for the labor and parts within thirty days following their approval. The franchisor, component manufacturer, or manufacturer shall either approve or disapprove the claim within thirty days after its receipt. If a claim is disapproved, the vehicle dealer who submitted the claim shall be notified in writing of the claim's disapproval within the thirty-day period. Any claim rejected for technical reasons may be put into proper form by the vehicle dealer. Any claim resubmitted by the vehicle dealer within thirty days after the receipt of the claim shall be considered to be approved and payment shall be made within thirty days. The franchisor, component manufacturer, or manufacturer has the right to audit any vehicle dealer claim for a period of one year after the claim is paid to the dealer and to charge back to the new vehicle dealer the amount of any unsubstantiated claim. If there is evidence of fraud by the vehicle dealer, the audit period is two years from the actual or constructive notice of facts constituting the alleged fraud.

Section 5. That § 32-6B-58.1 be AMENDED:

32-6B-58.1. A franchisor, component manufacturer, or manufacturer that provides a separate warranty for an engine, transmission, or rear axle installed in a commercial medium- and heavy-duty on-highway vehicle, as defined in 49 U.S.C. § 32901(a)(7) as of January 1, 2021, shall compensate any authorized repair facility that performs warranty work to repair or replace the engine, transmission or rear axle upon the same terms and conditions as provided in § 32-6B-61 for compensation of warranty work performed by a vehicle dealer. The franchisor, component manufacturer, or manufacturer shall pay all claims made by the facility for the labor and parts within thirty days following approval. The franchisor, component manufacturer, or manufacturer shall either approve or disapprove the claim within thirty days after receiving the claim. If a claim is disapproved, the facility that submitted the claim shall be notified in writing of the claim's disapproval within the thirty-day period. Any claim rejected for technical reasons may be put into proper form by the facility. Any claim resubmitted by the facility within thirty days after the receipt of the claim shall be considered to be approved and payment shall be made within thirty days. The franchisor, component manufacturer, or manufacturer has the right to audit any facility's claim for a period of one year after the claim is paid to the facility and to charge back to the facility the amount of any unsubstantiated claim. If there is evidence of fraud by the facility, the audit period is two years from the actual or constructive notice of facts constituting the alleged fraud.

Section 6. That § 32-6B-61 be AMENDED:

32-6B-61. The schedule of compensation for warranty work shall include

reasonable compensation for diagnostic work, as well as repair service, parts, and labor. Time allowances for diagnosis and performance of warranty work and service shall be adequate for the work to be performed. The hourly labor rate paid to the dealer for warranty services may not be less than the rate charged by the dealer for like service to nonwarranty customers for nonwarranty service. Reimbursement for parts used in the performance of warranty repair may not be less than the current retail rate customarily charged by the vehicle dealer for such parts. Each manufacturer or component manufacturer, in establishing a schedule of compensation for warranty work, shall rely on the vehicle dealer's written schedule of hourly labor rates and parts and may not obligate any vehicle dealer to engage in unduly burdensome documentation thereof, including, without limitation, obligating vehicle dealers to engage in transaction by transaction calculations.

Signed March 23, 2023

Chapter 101

(Senate Bill 61)

An Act to revise driver's license suspensions for restricted permit holders over the age of sixteen.

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

Section 1. That § 32-12-15 be AMENDED:

32-12-15. The issuance of an instruction permit, motorcycle instruction permit, restricted minor's permit, or motorcycle restricted minor's permit is on a probationary basis. The Department of Public Safety, upon the receipt of a record of conviction for a traffic violation or for a violation of the restrictions in ~~§~~ § 32-12-11, 32-12-11.1, 32-12-12, 32-12-12.1, 32-12-13, 32-12-14, or 32-12-12.5, committed while operating under an instruction permit, motorcycle instruction permit, restricted minor's permit, or motorcycle restricted minor's permit prior to the minor's ~~eighteenth~~ sixteenth birthday, shall suspend the minor's driving privileges according to the following schedule:

(1) ~~A~~ For a felony or Class 1 misdemeanor traffic conviction~~—~~, suspension for one hundred eighty days or until the minor's ~~eighteenth~~ sixteenth birthday, whichever period is ~~shorter~~ longer, or as otherwise required by law;

(2) ~~A~~ For a first Class 2 misdemeanor traffic conviction or a comparable conviction of any moving traffic violation of a county or municipal ordinance~~—~~, suspension for thirty days or as otherwise required by law;

(3) ~~A~~ For a first conviction of a violation of the conditions of an instruction permit, a motorcycle instruction permit, a restricted minor's permit, or a motorcycle restricted minor's permit~~—~~, suspension for thirty days or as otherwise required by law;

(4) ~~A~~ For a second Class 2 misdemeanor traffic conviction or a comparable conviction of any moving traffic violation of a county or municipal ordinance~~—~~, suspension until the minor's ~~eighteenth~~ sixteenth birthday or for one hundred eighty days, whichever period is ~~shorter~~ longer, or as otherwise required by law; and

(5) ~~A~~ For a second conviction of a violation of the conditions of an instruction

permit, a motorcycle instruction permit, a restricted minor's permit, or a motorcycle restricted minor's permit~~—~~, suspension until the minor's ~~eighteenth~~ sixteenth birthday or for one hundred eighty days, whichever period is ~~shorter~~ longer, or as otherwise required by law.

No permit may be suspended for a first violation of §§ 32-14-9.1, 32-21-27, 32-25-5, 32-26-20, or 34A-7-7.

If a minor has no instruction permit, motorcycle instruction permit, restricted minor's permit, or motorcycle restricted minor's permit, and is convicted of any traffic violation prior to the minor's eighteenth birthday, the department shall suspend or revoke the minor's driving privilege or privilege to apply for a driver license as provided in this section. A conviction for any traffic violation that occurs prior to the issuance of an instruction permit, motorcycle instruction permit, restricted minor's permit, motorcycle restricted minor's permit, motorcycle operator's license, or an operator's license ~~shall~~ must be placed on the driving record and given the same consideration as any violation that occurs following the issuance of an instruction permit, motorcycle instruction permit, restricted minor's permit, motorcycle restricted minor's permit, motorcycle operator's license, or an operator's license.

Signed February 27, 2023

Chapter 102

(Senate Bill 15)

An Act to accept Uniformed Services ID as proof of veteran status to have veteran designation added to a state license or ID card.

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

Section 1. That § 32-12-17.15 be AMENDED:

32-12-17.15. A designation that the licensee or card holder is a veteran shall be indicated on the license, permit, or nondriver identification card issued pursuant to this chapter if the licensee or card holder:

(1) Is an honorably discharged veteran having served in the armed forces of the United States;

(2) Has requested the designation on the license, permit, or nondriver identification card; and

(3) Has provided proof of the veteran's military service and honorable discharge by submitting the U.S. military DD Form 214, DD Form 2 (Retired), DD Form 2A (Reserve Retired), National Guard Form NGB 22, Uniformed Services ID Card (Retired), or a certificate signed by a county veterans service officer on a form prescribed by the South Dakota Department of Veterans Affairs.

Signed February 22, 2023

Chapter 103

(House Bill 1036)

An Act to increase civil penalties for commercial driver's license holders and motor carriers.

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

Section 1. That § 32-12A-5.1 be AMENDED:

32-12A-5.1. The state's attorney for the county in which a violation of subdivision 32-12A-5(4) occurs shall commence a civil in rem proceeding of not more than ~~ten thousand~~ nineteen thousand three hundred eighty-nine dollars against the employer.

Section 2. That § 32-12A-8.1 be AMENDED:

32-12A-8.1. No person may drive a commercial motor vehicle on the highways of this state while the person or the commercial motor vehicle is subject to any out-of-service order. A violation of this section is a Class 1 misdemeanor. The court shall order any person convicted for a violation of this section to remit to the clerk of courts the civil penalty described in § 32-12A-56 or 32-12A-57, as applicable.

Section 3. That § 32-12A-56 be AMENDED:

32-12A-56. In addition to disqualification, a driver who is convicted of violating an out-of-service order pursuant to § 32-12A-8.1 is subject to a civil penalty of not less than ~~two thousand five hundred~~ three thousand seven hundred forty dollars for a first conviction and not less than ~~five thousand~~ seven thousand four hundred eighty-one dollars for a second or subsequent conviction.

Section 4. That § 32-12A-57 be AMENDED:

32-12A-57. The state's attorney for the county in which the violation of subdivision 32-12A-5(3) occurs shall commence a civil in rem proceeding of not less than ~~two thousand seven hundred fifty~~six thousand seven hundred fifty-five dollars nor more than ~~twenty-five thousand~~ thirty-seven thousand four hundred dollars against the employer.

Signed February 9, 2023

Chapter 104

(House Bill 1215)

An Act to revise certain provisions regarding the operation of a golf cart on a state or county highway.

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

Section 1. That § 32-14-15 be AMENDED:

32-14-15. ~~No~~ Except as provided in section 2 of this Act, no person may

operate a golf cart on a state or county highway except for crossing from one side of the highway to the other. A golf cart may cross the highway at a right angle, but only after stopping and yielding the right-of-way to all approaching traffic and crossing as closely as possible to an intersection or approach. The operation of a golf cart on a state or county highway in a manner not permitted by this section is a Class 2 misdemeanor.

Section 2. That chapter 32-14 be amended with a NEW SECTION:

Any person may operate a golf cart on a state or county highway if the posted speed limit is twenty-five miles per hour or less. Nothing in this section relieves golf cart operators of any statutory requirements associated with motor vehicle operation within this state.

Signed March 8, 2023

Chapter 105

(House Bill 1158)

An Act to ban counterfeit airbags.

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

Section 1. That chapter 32-15 be amended with a NEW SECTION:

Terms used in this Act mean:

(1) "Airbag," a motor vehicle inflatable occupant restraint system device that is part of a supplemental restraint system;

(2) "Counterfeit supplemental restraint system component," a replacement supplemental restraint system component, including an airbag, that displays a mark identical to, or substantially similar to, the genuine mark of a motor vehicle manufacturer or a supplier of parts to the manufacturer of a motor vehicle without authorization from that manufacturer or supplier, respectively;

(3) "Nonfunctional airbag," a replacement airbag that meets any of the following criteria:

(a) The airbag was previously deployed or damaged;

(b) The airbag has an electric fault that is detected by the motor vehicle airbag diagnostic system when the installation procedure is completed, and the motor vehicle is returned to the customer who requested the work performed or when ownership is intended to be transferred;

(c) The airbag includes a part or object, including a supplemental restraint system component, that is installed in a motor vehicle to mislead the owner or operator of the motor vehicle into believing that a functional airbag has been installed; or

(d) The airbag is subject to the prohibitions of 49 U.S.C. § 30120(j) as of November 15, 2021;

(4) "Supplemental Restraint System," one or more airbags and all components required to ensure that an airbag works as designed by the vehicle

manufacturer and the airbags:

(a) Operate as designed in the event of a crash; and

(b) Are designed to meet federal motor vehicle safety standards for the specific make, model, and year of the motor vehicle in which it is or will be installed.

Section 2. That chapter 32-15 be amended with a NEW SECTION:

No person may knowingly:

(1) Import, manufacture, sell, offer for sale, install, or reinstall in a motor vehicle a counterfeit supplemental restraint system component, a nonfunctional airbag, or an object that does not comply with 49 C.F.R. § 571.208 as of September 26, 2022, for the make, model, and year of the motor vehicle;

(2) Sell, offer for sale, install, or reinstall in any motor vehicle a device that causes the diagnostic system of the motor vehicle to inaccurately indicate that the motor vehicle is equipped with a properly functioning airbag; and

(3) Sell, lease, trade, or transfer a motor vehicle if the person knows that a counterfeit supplemental restraint system component, a nonfunctional airbag, or an object that does not comply with 49 C.F.R. § 571.208 as of September 26, 2022, for the make, model, and year of the motor vehicle, has been installed in the motor vehicle as part of the airbag.

A person who violates this section is guilty of a Class 2 misdemeanor.

Section 3. That chapter 32-15 be amended with a NEW SECTION:

Section 2 of this Act does not apply to:

(1) A person installing, reinstalling, or replacing an airbag or other component of an airbag in a motor vehicle used solely for police work; or

(2) An owner or employee of a motor vehicle dealership or the owner of a motor vehicle who, before the sale of the motor vehicle, does not have knowledge that the airbag, or another component of the motor vehicle's supplemental restraint system is counterfeit or nonfunctional.

This Act does not create liability of any party in a civil action, or create a duty that, before the sale of a vehicle, an owner or employee of a motor vehicle dealership or the owner of the vehicle must inspect a vehicle in possession of the dealership or owner to determine whether the airbag, or another component of the vehicle's supplemental restraint system, is counterfeit or nonfunctional.

Signed March 6, 2023

Chapter 106

(Senate Bill 115)

An Act to revise certain provisions regarding consideration of out-of-state convictions for driving under the influence.

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

Section 1. That § 32-23-4.5 be AMENDED:

32-23-4.5. Any conviction for, or plea of guilty to, an offense in another state which, if committed in this state, would be a violation of § 32-23-1, 22-18-36, or 22-16-41, and occurring within ten years prior to the date of the violation being charged, ~~shall~~ or twenty-five years if the requirements of § 32-23-4.9 have been satisfied, must be used to determine if the violation being charged is a second, third, or subsequent offense.

Signed March 9, 2023

Chapter 107

(House Bill 1170)

An Act to establish mandatory sentences for certain driving while under the influence violations.

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

Section 1. That § 32-23-4.6 be AMENDED:

32-23-4.6. If a conviction for a violation of § 32-23-1 is for a fourth offense, the person is guilty of a Class 5 felony, and the court, in pronouncing sentence, ~~shall~~ must revoke the person's driver license for a period of not less than two years from the date sentence is imposed or two years from the date of initial release from imprisonment, whichever is later. If the person is returned to imprisonment prior to the completion of the period of driver's license revocation, time spent imprisoned does not count toward fulfilling the period of revocation. If the person is convicted of driving without a license during that period, the court ~~shall~~ must sentence the person to the county jail for not less than twenty days, which sentence may not be suspended. Notwithstanding § 23A-27-19, the court retains jurisdiction to modify the conditions of the license revocation for the term of such revocation. Upon the successful completion of a court-approved chemical dependency counseling program, and proof of financial responsibility pursuant to § 32-35-113, the court may permit the person to operate a vehicle for the purposes of employment, 24/7 sobriety testing, attendance at school, child care delivery or pickup, or attendance at counseling programs. Further, sentencing pursuant to this section includes the provisions of § 23A-27-18.

If a person is convicted of a fourth violation of § 32-23-1, the court must sentence the person to at least two years in a state correctional facility, one of which must be served on parole, unless refused pursuant to § 24-15A-15. Any term of parole must include at least one of the following: enrollment in an alcohol or drug accountability program, an ignition interlock, a breath alcohol interlock, an alcohol monitoring bracelet, or another enhanced monitoring tool. The court may suspend this sentence only if the court orders the person to participate in and complete a drug court program, DUI court program, veterans treatment court program, or mental health court program, as a condition of probation.

Section 2. That § 32-23-4.7 be AMENDED:

32-23-4.7. If a conviction for violation of § 32-23-1 is for a fifth offense, or subsequent offenses thereafter, the person is guilty of a Class 4 felony and the court, in pronouncing sentencing, ~~shall~~ must revoke the person's driver license for a period of not less than three years from the date sentence is imposed or three

years from the date of initial release from imprisonment, whichever is later. In the event the person is returned to imprisonment prior to the completion of the period of driver's license revocation, time spent imprisoned does not count toward fulfilling the period of revocation. If the person is convicted of driving without a license during that period, the court ~~shall~~ must sentence the person to the county jail for not less than twenty days, which sentence may not be suspended. Notwithstanding § 23A-27-19, the court retains jurisdiction to modify the conditions of the license revocation for the term of such revocation. Upon the successful completion of a court-approved chemical dependency counseling program, and proof of financial responsibility pursuant to § 32-35-113, the court may permit the person to operate a vehicle for the purposes of employment, 24/7 sobriety testing, attendance at school, child care delivery or pickup, or attendance at counseling programs.

If a person is convicted of a fifth or subsequent violation of § 32-23-1, the court must sentence the person to at least four years in a state correctional facility, one of which must be served on parole, unless refused pursuant to § 24-15A-15. Any term of parole must include at least one of the following: enrollment in an alcohol or drug accountability program, an ignition interlock, a breath alcohol interlock, an alcohol monitoring bracelet, or another enhanced monitoring tool. The court may suspend this sentence only if the court orders the person to participate in and complete a drug court program, DUI court program, veterans treatment court program, or mental health court program, as a condition of probation.

Section 3. That § 32-23-4.9 be AMENDED:

32-23-4.9. If a conviction for a violation of § 32-23-1 is for a sixth offense, or subsequent offense, and the person had at least five convictions of § 32-23-1 occurring within twenty-five years of the violation being charged, and at least two of those prior convictions having occurred within ten years, the violation is an aggravated offense and the person is guilty of a Class 4 felony. If a person is convicted of an aggravated violation of § 32-23-1 and the person has at least six convictions of § 32-23-1 occurring within fifteen years of the violation being charged, the court must sentence the person to at least six years in a state correctional facility, one of which must be served on parole, unless refused pursuant to § 24-15A-15. Any term of parole must include at least one of the following: enrollment in an alcohol or drug accountability program, an ignition interlock, a breath alcohol interlock, an alcohol monitoring bracelet, or another enhanced monitoring tool. The court may suspend this sentence only if the court orders the person to participate in and complete a drug court program, DUI court program, veterans treatment court program, or mental health court program, as a condition of probation.

The court, in pronouncing sentencing, shall revoke the person's driver license for a period of not less than three years from the date the sentence is imposed or three years from the date of initial release from imprisonment, whichever is later. If the person is returned to imprisonment prior to the completion of the period of driver license revocation, time spent imprisoned does not count toward fulfilling the period of revocation. If the person is convicted of driving without a license during that period, the court ~~shall~~ must sentence the person to the county jail for not less than twenty days, which sentence may not be suspended. Notwithstanding § 23A-27-19, the court retains jurisdiction to modify the conditions of the license revocation for the term of such revocation.

Upon the person's successful completion of a court-approved chemical dependency counseling program and proof of financial responsibility pursuant to § 32-35-113, the court may permit the person to operate a vehicle for the purposes of employment, 24/7 sobriety testing, attendance at school, child care

delivery or pickup, or attendance at counseling programs.

For each person convicted under this section and placed on probation, parole, or released from prison due to a suspended sentence, the person's supervision must include at least one of the following: enrollment in an alcohol or drug accountability program, an ignition interlock, a breath alcohol interlock, an alcohol monitoring bracelet, or another enhanced monitoring tool. The Unified Judicial System shall oversee supervision of the offender if the sentence does not include a term of imprisonment in the penitentiary. The Department of Corrections shall oversee supervision of the offender if the sentence includes a term of imprisonment in the penitentiary. Any offender supervised pursuant to this section is not excluded from earned discharge credit as otherwise authorized by statute.

If, during the period of supervision imposed under this section, the person being supervised violates conditions, the person must be penalized according to the graduated sanctions policy to be established by the Supreme Court or the Department of Corrections, respectively.

Signed March 20, 2023

MILITARY AFFAIRS

Chapter 108
(House Bill 1048)

An Act to repeal and make technical changes to provisions regarding the Board of Military Affairs.

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

Section 1. That § 1-46-6 be REPEALED:

~~The Board of Military Affairs created by chapter 33-1 and its functions in the former Department of Military and Veterans Affairs are transferred to the Department of the Military created by Executive Reorganization Order 2011-01. The adjutant general shall perform the functions of the former secretary of the Department of Military and Veterans Affairs, relating to the Board of Military Affairs.~~

Section 2. That § 33-1-15 be AMENDED:

33-1-15. The adjutant general shall appoint all officers and appointees of the Department of the Military~~, except the members of the Board of Military Affairs created by this chapter~~. The adjutant general may employ such clerical and other employees and assistants as the adjutant general deems necessary for the proper transaction of the business of the department~~,~~ and fix their salaries except as otherwise provided by law.

Section 3. That § 33-1-17 be REPEALED:

~~There is hereby created, within the department, a Board of Military Affairs of seven members to be appointed by the Governor, to hold office at the pleasure~~

~~of the Governor, and who shall be compensated as provided by law.~~

Section 4. That § 33-1-17.1 be REPEALED:

~~The Board of Military Affairs shall be administered under the direction and supervision of the Department of the Military and the adjutant general, but shall retain the quasi-judicial, quasi-legislative, advisory, other nonadministrative and special budgetary functions (as defined in § 1-32-1) otherwise vested in it and shall exercise those functions independently of the adjutant general.~~

Section 5. That § 33-1-18 be REPEALED:

~~Before entering upon the discharge of their duties, the members of the Board of Military Affairs shall take and subscribe the oath required by S.D. Const., Art. XXI, § 3 which shall be filed in the Office of the Secretary of State.~~

Section 6. That § 33-1-19 be REPEALED:

~~The powers, duties, and functions of said Board of Military Affairs and the members thereof, shall be the powers, functions, duties, and responsibilities prescribed by chapter 33-11, subject to the provisions of §§ 1-46-6 and 33-1-17.1.~~

Section 7. That § 33-11-2 be AMENDED:

33-11-2. The Department of the Military shall erect or provide anywhere within the limits of this state, upon terms and conditions determined ~~by the Board of Military Affairs created by § 33-1-17~~ as most advantageous to the state, armories and other facilities for the use of the National Guard. The armories and other facilities shall be used for drill, meeting, and rendezvous purposes by the unit occupying them and for such other public functions as the officers in charge of the armory or facility deem advisable and proper. The armories and other facilities, if not in use by the National Guard, shall also be open for meetings and functions of organizations of war veterans and their auxiliary organizations.

Section 8. That § 33-11-3 be AMENDED:

33-11-3. The State of South Dakota, acting through the Department of the Military in participation with the federal government, and any county, municipal corporation, school district, or any department, agency, or board of the state or combination thereof, acting through their governing boards, may cooperate, on such terms as may be agreed to by the ~~Board of Military Affairs~~Department of the Military and the governing boards of the public corporations or other agencies in the construction, enlargement, conversion, and equipment of the buildings described in § 33-11-2, including acquisition of sites for such buildings, and in the operation, maintenance, and use of such buildings.

Section 9. That § 33-11-10 be AMENDED:

33-11-10. The ~~Board of Military Affairs~~Department of the Military also constitutes a board for general management and care of armories. The ~~board~~ department may promulgate rules pursuant to the provisions of chapter 1-26 for armory management and government and to provide for the guidance of the organization occupying them. The rules, in accordance with federal law and regulation, shall provide:

(1) Standards and requirements for construction or lease of armory facilities and related furnishings of such facilities;

(2) Standards and requirements for construction or lease of facilities, other than armories, and related furnishings as required by § 33-11-1;

(3) Procedures to enter into cooperative agreements with other public agencies pursuant to § 33-11-3;

(4) Procedures and standards to receive contributions of land, money, buildings, or other property pursuant to § 33-11-6; and

(5) Standards and procedures governing revenue producing activities undertaken pursuant to § 33-11-12.

Section 10. That § 33-11A-2 be AMENDED:

33-11A-2. An armory or other facility under the control of the ~~Board of Military Affairs~~ Department of the Military may be used for the purpose of § 33-11A-1.

Signed February 22, 2023

Chapter 109

(House Bill 1047)

An Act to revise certain provisions regarding military affairs.

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

Section 1. That § 13-55-7 be AMENDED:

13-55-7. The term, "armed forces," as used in § 13-55-6, ~~shall mean and include the following:~~ means all components of the ~~United States~~ Army, ~~Army of the United States, United States~~ Navy, ~~United States Naval Reserves, United States~~ Marine Corps, ~~United States Marine Corps Reserve,~~ Air Force, Space Force, and ~~United States~~ Coast Guard~~, United States Coast Guard Reserve which shall be construed to include the United States Coast Guard Temporary Reserve, Women's Army Corps, United States Navy Women's Reserve, United States Marine Corps Women's Reserve, United States Coast Guard Women's Reserve, Army Nurse Corps, and Navy Nurse Corps~~.

Section 2. That § 18-4-6 be AMENDED:

18-4-6. In addition to the acknowledgment of instruments in the manner and form and as otherwise authorized by the laws of South Dakota, any person serving in or with the armed forces of the United States may acknowledge the execution of an instrument, wherever located, before any commissioned officer in active service of the armed forces of the United States with the rank of second lieutenant or higher in the Army, Air Force, Space Force, or Marine Corps, or ensign or higher in the Navy or United States Coast Guard. The instrument shall not be rendered invalid by the failure to state therein the place of execution or acknowledgment.

Section 3. That § 33-4-19 be REPEALED:

~~No state funds may be used for the purchase of uniforms or equipment of officers of the National Guard. However, such equipment may be issued by the quartermaster general upon the approval of the Governor.~~

Section 4. That § 33-8-1 be REPEALED:

~~Every noncommissioned officer, musician, and private of a company, troop, or battery, duly organized under the military laws of this state, shall be furnished with a uniform complete and the necessary insignia of rank. The noncommissioned staff of each regiment, brigade, or battalion shall in like manner be provided with uniforms upon requisition of the commanding officer of the regiment or battalion to which they are attached.~~

Section 5. That § 33-8-5 be REPEALED:

~~Any person who intentionally, or through negligence, injures or destroys any uniform or other property provided for in § 33-8-1 and who refuses or neglects to make good such injury or loss, or who sells or disposes of the uniform or property, is guilty of a Class 2 misdemeanor.~~

Section 6. That § 33-8-6 be REPEALED:

~~All commissioned officers of the national guard shall provide themselves with such uniforms and arms, complete, as are required by the United States Armed Forces regulations for officers of the United States Armed Forces except as provided by this title.~~

Section 7. That § 33-8-7 be REPEALED:

~~The uniforms worn by officers or enlisted men of the national guard shall include such marks or insignia as may be prescribed by the secretary of defense to distinguish such uniforms from the uniforms of the United States Army, Navy, Air Force, or Marine Corps.~~

Section 8. That § 33-8-8 be REPEALED:

~~Any person who wears or uses, except in the discharge of military duty or by special permission of the person's commanding officer, any uniform or other military property, commits a petty offense.~~

Section 9. That § 33-9-7 be AMENDED:

33-9-7. Any person who advises or endeavors to persuade any officer or ~~soldier~~ enlisted member of the National Guard to refuse or neglect to appear at such place or obey such orders is guilty of a Class 2 misdemeanor.

Section 10. That § 33-10-20 be AMENDED:

33-10-20. Terms used in this chapter mean:

(1) "Accuser," a person who signs and swears to charges, any person who directs that charges nominally be signed and sworn to by another, and any other person who has an interest other than an official interest in the prosecution of the accused;

(2) "Cadet," "candidate," or "midshipman," a person who is enrolled in or attending a state military academy, a regional training institute, or any other formal education program for the purpose of becoming a commissioned officer in the state military forces;

(3) "Classified information,":

(a) Any information or material that has been determined by an official of the United States or any state pursuant to law, an executive order, or regulation to require protection against

unauthorized disclosure for reasons of national or state security; and

(b) Any restricted data, as defined in section 11(y) of the Atomic Energy Act of 1954 (42 U.S.C. § 2014(y)) as of January 1, 2012;

(4) "Code," this chapter;

(5) "Commanding officer," includes only commissioned officers of the state military forces and shall include officers in charge only when administering nonjudicial punishment pursuant to this code. The term, commander, has the same meaning as commanding officer;

(6) "Convening authority," includes, in addition to the person who convened the court, a commissioned officer commanding for the time being or a successor in command to the convening authority;

(7) "Day," a calendar day and is not synonymous with the term, unit training assembly. Any punishment authorized by this code which is measured in terms of days shall, if served in a status other than annual field training, be construed to mean succeeding duty days;

(8) "Duty status other than state active duty," any other type of duty not in federal service and not full-time duty in the active service of the state under an order issued by authority of law and includes travel to and from such duty;

(9) "Enlisted member," a person in an enlisted grade;

(10) "Judge advocate," a commissioned officer of the organized state military forces who is a member in good standing of the bar of the highest court of a state, and is:

(a) Certified or designated as a judge advocate in the Judge Advocate General's Corps of the Army, Air Force, Navy, or the Marine Corps or designated as a law specialist as an officer of the Coast Guard, or a reserve component of one of these; or

(b) Certified as a nonfederally recognized judge advocate by the senior judge advocate of the commander of the force in the state military forces of which the accused is a member, as competent to perform such military justice duties required by this code. If there is no such judge advocate available, then such certification may be made by such senior judge advocate of the commander of another force in the state military forces, as the convening authority directs;

(11) "Military court," a court-martial or a court of inquiry;

(12) "Military judge," an official of a general or special court-martial detailed in accordance with § 33-10-77;

(13) "Military offenses," those offenses prescribed under this chapter;

(14) "National security," the national defense and foreign relations of the United States;

(15) "Officer," a commissioned or warrant officer;

(16) "Officer in charge," a member of the ~~naval militia, the Navy, the Marine Corps, or the Coast Guard~~ Army or Air Force designated as such by appropriate authority;

(17) "Record," when used in connection with the proceedings of a court-martial:

(a) An official written transcript, written summary, or other writing relating to the proceedings; or

(b) An official audiotape, videotape, digital image or file, or similar material from which sound, or sound and visual images, depicting the proceedings may be reproduced;

(18) "State," one of the several states, the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the U.S. Virgin Islands;

(19) "State active duty," full-time duty in the state military forces under an order of the Governor or otherwise issued by authority of law, and paid by state funds, and includes travel to and from such duty;

(20) "Senior force judge advocate," the senior judge advocate of the commander of the same force of the state military forces as the accused and who is that commander's chief legal advisor;

(21) "State military forces," the National Guard of the State of South Dakota, as defined in Title 32, United States Code, and any other military force organized under the Constitution and laws of this State, when not in a status subjecting them to exclusive jurisdiction under chapter 47 of Title 10, United States Code;

(22) "Superior commissioned officer," a commissioned officer superior in rank or command;

(23) "Senior force commander," the commander of the same force of the state military forces as the accused.

Section 11. That § 33-10-48 be AMENDED:

33-10-48. If the Governor, as commander in chief, issues an order to the National Guard, or any portion thereof, or the commanding officer of an organization issues any order, to perform any military duty that may be required under the law and regulations, and any enlisted servicemember fails to report for duty, any law enforcement officer shall, upon written request of the commanding officer of such company or troop, if furnished with a copy of the order of the Governor or the commanding officer of the organization, arrest the enlisted servicemember and deliver that enlisted servicemember in person to the commanding officer wherever the commanding officer may direct. The law enforcement officer shall be allowed the same fees and mileage for such service as are now allowed by law in criminal cases. The fees and mileage shall in the first instance be paid by the state if the servicemember's duties are in the service of the state, otherwise the fees and mileage shall be paid as the United States so provides. The fees and mileage may be recovered from the servicemember in accordance with the rules and regulations of the United States armed forces. The ~~secretary of the Department of the Military~~ Adjutant General may promulgate rules, pursuant to chapter 1-26, to provide for the recovery of fines and mileage from a servicemember who fails to report for military duty as ordered.

Section 12. That § 33-10-60 be AMENDED:

33-10-60. Rules promulgated by the ~~secretary of the Department of the Military~~ Adjutant General, pursuant to chapter 1-26, may prescribe the form of records to be kept of proceedings under this code and may prescribe that certain categories of those proceedings shall be in writing.

Section 13. That § 33-10-86 be AMENDED:

33-10-86. Under such rules as may be promulgated by the ~~secretary of the Department of the Military~~ Adjutant General pursuant to chapter 1-26, the convening authority of a general or special court-martial or court of inquiry shall detail or employ qualified court reporters, who shall record the proceedings of and testimony taken before that court and may detail or employ interpreters who shall interpret for the court.

Section 14. That § 33-10-158 be AMENDED:

33-10-158. A complete verbatim record of the proceedings and testimony shall be prepared in each general and special court-martial case resulting in a conviction.

In all other court-martial cases, the record shall contain such matters as may be prescribed by rules promulgated pursuant to chapter 1-26 by the ~~secretary of the Department of the Military~~ Adjutant General.

Section 15. That § 33-10-159 be AMENDED:

33-10-159. Each summary court-martial shall keep a separate record of the proceedings in each case. The record shall be authenticated in the manner as may be prescribed by rules promulgated pursuant to chapter 1-26 by the ~~secretary of the Department of the Military~~ Adjutant General.

Section 16. That § 33-10-163 be AMENDED:

33-10-163. The limits of punishment for violations of the punitive provision prescribed by this code shall be lesser of the sentences prescribed by the manual for courts-martial of the United States in effect ~~on January 1, 2012~~ at the time of the offense, and the state manual for courts-martial. However, in no instance may any punishment exceed that authorized by this code.

Section 17. That § 33-10-189 be AMENDED:

33-10-189. Before acting pursuant to § 33-10-188 on any general or special court-martial case in which there is a finding of guilt, the convening authority or other person taking action shall obtain and consider the written recommendation of a judge advocate. The convening authority or other person taking action shall refer the record of trial to the judge advocate, and the judge advocate shall use such record in the preparation of the recommendation. The recommendation of the judge advocate shall include such matters as may be prescribed by rules promulgated pursuant to chapter 1-26 by the ~~secretary of the Department of the Military~~ Adjutant General and shall be served on the accused, who may submit any matter in response pursuant to § 33-10-182. Failure to object in the response to the recommendation or to any matter attached to the recommendation waives the right to object thereto.

Section 18. That § 33-10-202 be AMENDED:

33-10-202. The record of trial and related documents in each case reviewed pursuant to § 33-10-201 shall be sent for action to the adjutant general, if:

(1) The judge advocate who reviewed the case recommends corrective action;

(2) The sentence approved pursuant to § 33-10-187 extends to dismissal, a bad-conduct or dishonorable discharge, or confinement for more than six months; or

(3) Such action is otherwise required by rules promulgated by the ~~secretary of the Department of the Military~~ Adjutant General pursuant to chapter 1-26.

Section 19. That § 33-10-222 be AMENDED:

33-10-222. Pursuant to rules as may be promulgated by the ~~secretary of the Department of the Military~~ Adjutant General pursuant to chapter 1-26, all rights, privileges, and property affected by an executed part of a court-martial sentence which has been set aside or disapproved, except an executed dismissal or discharge, shall be restored unless a new trial or rehearing is ordered and such executed part is included in a sentence imposed upon the new trial or rehearing.

Section 20. That § 33-10-226 be AMENDED:

33-10-226. Pursuant to rules promulgated by the ~~secretary of the Department of the Military~~ Adjutant General pursuant to chapter 1-26, an accused who has been sentenced by a court-martial may be required to take leave pending completion of action under this section if the sentence, as approved pursuant to § 33-10-187, includes an unsuspended dismissal or an unsuspended dishonorable or bad-conduct discharge. The accused may be required to begin such leave on the date on which the sentence is approved pursuant to § 33-10-187 or at any time after such date, and such leave may be continued until the date on which action under this section is completed or may be terminated at any earlier time.

Section 21. That § 33-12-1 be REPEALED:

~~The adjutant general is also quartermaster general. The office of the quartermaster general shall be maintained at a place within the state as the Governor directs. If the office of the quartermaster general is maintained at a place other than that where the office of the adjutant general is established, the quartermaster general is entitled to reimbursement of expenses incurred in the performance of official duties at either location and to traveling expenses pursuant to § 3-9-2.~~

Section 22. That § 36-1-2 be AMENDED:

36-1-2. The term, ~~"~~armed forces~~",~~ as used in this chapter ~~shall mean and include the following:~~ means all components of the United States Army, Army of the United States, United States Navy, United States Naval Reserve, United States Air Force, United States Marine Corps, United States Marine Corps Reserve, United States Space Force, United States Coast Guard, United States Coast Guard Reserve which shall be construed to include the United States Coast Guard Temporary Reserve, Women's Army Corps, United States Navy Women's Reserve, United States Marine Corps Women's Reserve, United States Coast Guard Women's Reserve, Army Nurse Corps, and Navy Nurse Corps.

Section 23. That § 58-33-117 be AMENDED:

58-33-117. Terms in this section and §§ 58-33-118 to 58-33-130, inclusive, mean:

(1) "Active duty," full-time duty in the active military service of the United States and includes members of the reserve component (National Guard and Reserve) while serving under published orders for active duty or full-time training. The term does not include members of the reserve component who are performing active duty or active duty for training under military calls or orders specifying periods of less than thirty-one calendar days;

(2) "Armed forces of the United States," all components of the Army, Navy, Air Force, Space Force, Marine Corps, and Coast Guard;

(3) "Department of Defense (DoD) personnel," all active duty service members and all civilian employees, including nonappropriated fund employees and special government employees, of the Department of Defense;

(4) "Door to door," a solicitation or sales method whereby an insurance producer proceeds randomly or selectively from household to household without prior specific appointment;

(5) "General advertisement," an advertisement having as its sole purpose the promotion of the reader's or viewer's interest in the concept of insurance, or the promotion of the insurer or the insurance producer;

(6) "Known" or "knowingly," the insurance producer or insurer had actual awareness, or in the exercise of ordinary care should have known, at the time of the act or practice complained of, that the person solicited:

(a) Is a service member; or

(b) Is a service member with a pay grade of E-4 or below;

(7) "Military installation," any federally owned, leased, or operated base, reservation, post, camp, building, or other facility to which service members are assigned for duty, including barracks, transient housing, and family quarters;

(8) "MyPay," a defense finance and accounting service internet-based system that enables service members to process certain discretionary pay transactions or provide updates to personal information data elements without using paper forms;

(9) "Service member," any active duty officer (commissioned and warrant) or enlisted member of the armed forces of the United States;

(10) "Side fund," a fund or reserve that is part of or otherwise attached to a life insurance policy (excluding individually issued annuities) by rider, endorsement or other mechanism which accumulates premium or deposits with interest or by other means. The term does not include:

(a) Accumulated value or cash value or secondary guarantees provided by a universal life policy;

(b) Cash values provided by a whole life policy which are subject to standard nonforfeiture law for life insurance; or

(c) A premium deposit fund which:

(i) Contains only premiums paid in advance which accumulate at interest;

(ii) Imposes no penalty for withdrawal;

(iii) Does not permit funding beyond future required premiums;

(iv) Is not marketed or intended as an investment; and

(v) Does not carry a commission, either paid or calculated;

(11) "Specific appointment," a prearranged appointment agreed upon by both parties and definite as to place and time.

Signed February 22, 2023

Chapter 110

(House Bill 1039)

An Act to revise certain provisions regarding the payment of tuition for members of the South Dakota National Guard.

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

Section 1. That § 33-6-5 be AMENDED:

33-6-5. Any member of the ~~National Guard of the State of~~ South Dakota National Guard is, upon compliance with all the requirements for admission and subject to the provisions of § 33-6-7, entitled to a benefit as prescribed by this section and ~~§ 33-6-5.1~~ § 33-6-5.2 to attend and pursue any undergraduate course or courses in any state educational institution under the control and management of the Board of Regents. Any member of South Dakota National Guard who is a resident of the state is entitled to a benefit of ~~fifty~~ one hundred percent of the in-state resident tuition to be paid or otherwise credited by the Board of Regents. ~~Any nonresident~~ Any member of the South Dakota National Guard who is not a resident of the state is entitled to a benefit of ~~fifty~~ one hundred percent of the in-state resident tuition to be paid or otherwise credited by the Board of Regents. However, the state benefit is paid after applying the federal tuition benefit. The total federal and state benefit may not exceed one hundred percent of the tuition cost. The benefits established under §§ 33-6-5 to 33-6-8, inclusive, may not exceed one hundred twenty-eight credit hours towards a baccalaureate degree.

Section 2. That § 33-6-5.1 be AMENDED:

33-6-5.1. Any member of the ~~National Guard of the State of South Dakota~~ South Dakota National Guard is, upon compliance with all the requirements for admission and subject to the provisions of § 33-6-7, entitled to a benefit as prescribed by ~~§§ 33-6-5.1~~ this section and § 33-6-5.3. Any member of the ~~National Guard of the State of South Dakota~~ South Dakota National Guard who is enrolled in a program leading toward a graduate degree in any state educational institution under the control and management of the Board of Regents, including institutions or courses not subsidized by the general fund, is entitled to a benefit of ~~fifty~~ one hundred percent of the in-state resident graduate tuition to be paid or otherwise credited by the Board of Regents. However, the state benefit is paid after applying the federal tuition benefit. The total federal and state benefit may not exceed one hundred percent of the tuition cost. The benefit provided by ~~§§ 33-6-5.1~~ this section and ~~33-6-5.2~~ § 33-6-5.3 may not exceed thirty-two credit hours toward a graduate degree.

Section 3. That § 33-6-5.2 be AMENDED:

33-6-5.2. Notwithstanding the provisions of § 13-55-23, an eligible member of the South Dakota National Guard ~~members~~ enrolled in undergraduate courses under the control and management of the Board of Regents not subsidized by the general fund are entitled to a benefit of ~~fifty~~ one hundred percent of the in-

state resident tuition to be paid or otherwise credited by the Board of Regents. However, the state benefit is paid after applying the federal tuition benefit. The total federal and state benefit may not exceed one hundred percent of the tuition cost.

Section 4. That § 33-6-5.3 be AMENDED:

33-6-5.3. Notwithstanding the provisions of § 13-55-23, an eligible member of the South Dakota National Guard ~~members~~ enrolled in graduate courses under the control and management of the Board of Regents not subsidized by the general fund are entitled to a benefit of ~~fifty~~ one hundred percent of the in-state resident tuition to be paid or otherwise credited by the Board of Regents. However, the state benefit is paid after applying the federal tuition benefit. The total federal and state benefit may not exceed one hundred percent of the tuition cost.

Section 5. That § 33-6-6 be AMENDED:

33-6-6. Any member of the ~~National Guard of the State of~~ South Dakota National Guard, who is a resident of the state and who possesses the entrance requirements for admission to any technical college program, is entitled to complete one program of study approved by the Board of Technical Education in any state technical college ~~upon payment of sixteen and one-half percent of the tuition charges. The remaining~~ One hundred percent of tuition ~~shall~~ must be paid or otherwise credited by the technical college. However, the state benefit is paid after applying the federal tuition benefit. The total federal and state benefit may not exceed one hundred percent of the tuition cost.

Section 6. That § 33-6-7 be AMENDED:

33-6-7. To be eligible for ~~fifty~~ one hundred percent of in-state resident tuition without cost or reimbursement, a national guard member shall:

(1) Be a member of the South Dakota Army National Guard Unit or Air National Guard Unit throughout each semester or vocational program for which the member applies for benefits;

(2) Have satisfactorily completed required initial basic training;

(3) Have satisfactorily performed duty upon return from basic training, including a minimum ninety percent attendance on scheduled drill dates and at annual training with the member's parent unit;

(4) Maintain satisfactory academic progress; and

(5) Provide proper notice to the institution at the time of registration for the term in which the benefits are sought.

Section 7. That chapter 33-6 be amended with a NEW SECTION:

For the purposes of this chapter, the term, federal tuition benefit, means a tuition benefit provided by the United States Department of Defense, United States Department of the Army, or the United States Department of the Air Force. The term, federal tuition benefit, excludes any benefits or entitlements provided by the United States Department of Veterans Affairs.

Signed March 16, 2023

VETERANS AFFAIRS

Chapter 111

(House Bill 1038)

An Act to revise certain provisions pertaining to the Department of Veterans Affairs and residency in the State Veterans Home.

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

Section 1. That § 33A-1-3 be AMENDED:

33A-1-3. ~~Adequate office~~ Office space for the Department of Veterans Affairs ~~shall~~ must be provided in the Soldiers and Sailors Memorial Building or in other suitable space at the state capital.

Section 2. That § 33A-1-10 be AMENDED:

33A-1-10. The secretary of the Department of Veterans Affairs shall establish and maintain ~~a sufficient~~ an office and field force to carry out the provisions of this chapter, including representation at the United States Department of Veterans Affairs facilities in this state.

Section 3. That § 33A-1-11 be AMENDED:

33A-1-11. The secretary shall make an annual written report to the Governor. ~~which shall be~~ The report must be open to public inspection.

Section 4. That § 33A-1-12 be AMENDED:

33A-1-12. All employees of the Department of Veterans Affairs below the level of secretary shall be selected as provided by chapter 3-6D. However, any employee that holds the title of state veterans service officer ~~or state fieldmen veterans service officer shall~~ must be a veteran who has served in the armed forces of the United States and is a citizen of the United States. All other employees ~~shall~~ must be veterans, if available. These employees shall perform duties assigned to them by the Department of Veterans Affairs.

Section 5. That § 33A-1-16 be AMENDED:

33A-1-16. The Department of Veterans Affairs shall cooperate with all national, state, county, municipal, and private social agencies in securing to veterans, National Guard or Reserve members, and their dependents, the benefits provided by national, state, and county laws, municipal ordinances, or public or private social agencies. ~~To that end, the department may hold schools of instruction for county and tribal veterans service officers, or call in for instruction individual county or tribal veterans service officers if, in the judgment of the Department of Veterans Affairs, the giving of such instructions or holding of such schools is in the best interest of the work of the department.~~

Section 6. That § 33A-1-24 be AMENDED:

33A-1-24. Each county ~~veterans'~~ veterans service officer shall provide, within the county or counties employing the officer, local contact between fieldmen of the Department of Veterans Affairs and persons in the armed service or those

discharged from such service, and the dependents of such persons. ~~The county veteran's service officer shall aid or assist volunteer service officers in securing evidence and perfecting claims; advise those in the armed service and veterans or their dependents of benefits available to them; and aid them in completing required forms and complying with regulations.~~ The county ~~veteran's~~ veterans service officer works under the direction of the Department of Veterans Affairs.

Section 7. That § 33A-1-28 be AMENDED:

33A-1-28. A county ~~veterans'~~ veterans service officer may be employed either part time or full time. The salary and ~~necessary mileage and expense allowance~~ budget of the officer ~~shall be~~ is determined by the board or boards of county commissioners employing the officer. The officer ~~shall~~ must be provided with a secure office space, office fixtures, furnishings, and equipment, either in the courthouse or some other central and accessible ~~place~~ location.

Section 8. That § 33A-1-31 be AMENDED:

33A-1-31. The Department of Veterans Affairs may establish, implement, and maintain a program for providing financial assistance to counties in paying the salaries of county ~~veterans'~~ veterans service officers. ~~Any program established and maintained by the Department of Veterans Affairs shall provide for assistance to applying counties on the basis of one dollar of state funds for each four dollars of county funds provided for payment of the salary of the county veterans' service officer of the applying county.~~ No county may be reimbursed in excess of twenty-five percent of the basic salary schedule outlined in § 33A-1-32 for any fiscal year.

Section 9. That § 33A-2-33 be AMENDED:

33A-2-33. ~~No veteran may receive more than one bonus pursuant to § 33A-2-13 for service before January 1, 1993, and no veteran may receive more than one bonus for service after January 1, 1993. However, any~~Any veteran who is eligible for a bonus pursuant to § 33A-2-13 for service before December 31, 1992, and for service after January 1, 1993, may receive two separate bonuses. No single bonus may exceed five hundred dollars.

Section 10. That § 33A-4-1 be AMENDED:

33A-4-1. The ~~South Dakota~~ State ~~Veterans'~~ Veterans Home is under the control and general supervision of the Department of Veterans Affairs.

Section 11. That § 33A-4-10 be REPEALED:

~~The superintendent of the State Veterans' Home shall recommend to the secretary of veterans affairs such measures as the superintendent deems necessary for the government of the home.~~

Section 12. That § 33A-4-11 be AMENDED:

33A-4-11. The permanent incidental fund heretofore provided for the use of the ~~superintendent of the South Dakota~~ State ~~Veterans'~~ Veterans Home is hereby continued. ~~Such~~ The fund ~~shall be~~ is kept and used by the ~~superintendent of said home~~ State Veterans Home for the payment of bills for freight, express, mileage, postage, and such other incidental expense of ~~said~~ the home as ~~shall~~ require immediate payment pending the issuance of an auditor's warrant upon the state treasury therefor, and for no other purpose whatever. In each case where ~~such~~ the payment is made, the amount ~~shall~~ must be returned to the permanent incidental fund immediately upon the receipt of the state auditor's warrant covering the bill for which ~~such~~ the expenditure was made.

Section 13. That § 33A-4-12 be AMENDED:

33A-4-12. Any ~~member~~ resident of the State ~~Veterans'~~ Veterans Home ~~who receives a pension, compensation, or gratuity from the United States government or sufficient funds from any source of more than fifty dollars a month above contributions toward the care of any dependents,~~ shall contribute to the ~~member's~~ resident's maintenance, care, or support while a ~~member~~ resident of the home. The contributions ~~shall~~ must be determined by the secretary of veterans affairs and may not exceed the actual cost of ~~support~~ care of ~~members~~ residents at the home ~~as determined by the secretary of veterans affairs. Payment of these amounts shall be made first to the fullest extent possible from sources of income other than pensions or compensation paid by the Veterans Administration~~.

Section 14. That § 33A-4-13 be REPEALED:

~~If a member of the State Veterans' Home accumulates more than ten thousand dollars in cash assets while a resident at the state home, the member shall pay a monthly charge determined by the secretary of veterans affairs.~~

Section 15. That § 33A-4-14 be REPEALED:

~~If any veteran and spouse accumulate more than fifteen thousand dollars in cash assets while both are in residency at the State Veterans' Home, they shall pay a monthly charge determined by the secretary of veterans affairs.~~

Section 16. That § 33A-4-15 be AMENDED:

33A-4-15. Any ~~member~~ resident or former ~~member~~ resident of the State ~~Veterans'~~ Veterans Home may pay the ~~state~~ home in advance of death the full maintenance charge for each month ~~this member~~ the resident was in the home, retroactive from the date of admission with proper credits allowed for any payments made ~~by him~~ towards the monthly maintenance charge, but such credits not to include any allowances of the state government, notwithstanding the provisions found in §§ 33A-4-18 and 33A-4-19, and such moneys received from the ~~member~~ resident or former ~~member~~ resident shall go to the capital fund of the ~~state~~ home for repairs, equipment, improvements, or construction.

Section 17. That § 33A-4-16 be AMENDED:

33A-4-16. ~~If any member~~When a resident of the State ~~Veterans'~~ Veterans Home dies without legal dependents, the ~~member's~~ resident's property ~~shall~~ must be distributed to the ~~South Dakota~~ State ~~Veterans'~~ Veterans Home as sole heir for the sole use and benefit of the home. The ~~member~~ resident may, by will, dispose of the ~~member's~~ resident's estate subject to the preferred claim provided in §§ 33A-4-17 to 33A-4-20, inclusive. A spouse residing at the home is considered as a legal dependent for the purpose of this section.

Section 18. That § 33A-4-17 be AMENDED:

33A-4-17. ~~If~~When a ~~member~~ resident of the State ~~Veterans'~~ Veterans Home dies, leaving at the home cash or other personal property of value, the superintendent of the home may turn over the cash, property, or its proceeds to the Department of Veterans Affairs for the sole use and benefit of the home, without administration. The cash, property, and proceeds are subject to refund within three years to any creditor, legal dependent, or heir, if the deceased ~~member~~ resident left a will, and if the creditor, legal dependent, or heir establishes a right to the cash, property, or proceeds or any portion of the cash, property, or

proceeds. The attorney general, upon being satisfied that a claim out of the cash, property, or proceeds is legal and valid, may certify the claim to the secretary of veterans affairs, and the secretary of veterans affairs shall satisfy the claim.

Section 19. That § 33A-4-18 be AMENDED:

33A-4-18. ~~If~~When an estate is left by a deceased ~~member~~ resident of the State ~~Veterans'~~Veterans Home leaving no surviving spouse or dependent, the ~~state~~ home shall file a claim against the estate of the deceased ~~member~~ resident in the amount of the full maintenance charge for each month the ~~member~~ resident was in the home, retroactive from the date of admission with proper credits allowed to the estate of the deceased ~~member~~ resident for any payments made by the ~~member~~ resident. However, the credits may not include any allowances of the state government. Any such money received from the deceased ~~member~~ resident shall go to a capital fund of the ~~state~~ home for repairs, equipment, improvements, or construction.

Section 20. That § 33A-4-19 be AMENDED:

33A-4-19. ~~If~~When a deceased ~~member~~ resident of the State ~~Veterans'~~ Veterans Home leaves a spouse, or other dependent, the ~~member's~~ resident's estate is payable to the spouse, or other dependent. Upon the death of the spouse or other dependent, the ~~state~~ home shall file a claim against the estate of the deceased spouse or other dependent for any claim against the estate of both the ~~deceased husband and wife~~ decedents as provided in § 33A-4-18. The claim is a preferred claim against the estates.

Section 21. That § 33A-4-22 be AMENDED:

33A-4-22. The superintendent of the State ~~Veterans'~~ Veterans Home may receive, disburse, and account for personal funds of ~~members~~ residents of the home, received from any source, under the policies adopted by the Department of Veterans Affairs.

Section 22. That § 33A-4-23 be REPEALED:

~~Any member of the State Veterans' Home who is determined to have a dependent spouse or minor child shall allow for one half of the member's total gross income to be paid to the dependent spouse or minor child. If the superintendent determines the member's spouse has deserted the member, or is not supporting the best interest of the member, or is not dependent upon the support of the member, the superintendent shall remove this allowance.~~

Section 23. That § 33A-4-24 be AMENDED:

33A-4-24. There is hereby created a State ~~Veterans'~~ Veterans Home operating fund. All sums paid to and received by the superintendent of the State ~~Veterans'~~ Veterans Home, under this chapter, for the support, care, and maintenance of the ~~members~~ residents in the home, shall be paid monthly by him to the state treasurer and credited to the ~~veterans'~~ veterans home operating fund. The fund shall be maintained separately and administered by the Department of Veterans Affairs to defray the expenses associated with operation of the State ~~Veterans'~~ Veterans Home. Expenditures from the fund shall be budgeted through the normal budget process. Unexpended funds and interest shall remain in the fund.

Section 24. That § 33A-4-26 be AMENDED:

33A-4-26. The spouse of any veteran who is eligible to become a ~~member~~

resident of the State ~~Veterans'~~ Veterans Home, may be admitted with the veteran if they have been married and living together for at least one year ~~before~~ preceding application for admission and if their combined income does not exceed four hundred dollars per year above the maximum income limitation allowable for pension benefits as determined by the Veterans Administration. Or, a spouse may be admitted if the veteran, otherwise eligible to admission, is institutionalized for physical or mental disability, if the spouse has been married to the veteran spouse for at least one year. ~~The nonveteran spouse is subject to the same house rules and rules as to furlough and discharge as the veteran spouse. Membership~~ Resident status is not affected by the death of a spouse or by marriage between ~~members~~ residents of the home.

Section 25. That § 33A-4-27 be AMENDED:

33A-4-27. The widow or widower of any deceased veteran may be admitted to the home if not remarried, upon the following conditions: the deceased veteran must have been eligible for admission to the home~~,~~; the widow or widower ~~shall have~~ has attained the age of sixty years~~, shall have been~~; the widow or widower was married to the veteran spouse at least one year prior to the veteran's date of death and ~~living~~ they lived together during that period except where there was a separation ~~which was~~ due to the misconduct of, or procured by, the veteran, without fault of~~,~~ the spouse~~,~~; and the widow or widower ~~must have~~ has been a resident of this state for ~~the period of~~ at least one year ~~next~~ immediately preceding the date of application. ~~The nonveteran spouse shall be subject to the same house rules and rules as to furlough, suspension, and discharge, as the veterans of the home.~~

Section 26. That § 33A-4-28 be AMENDED:

33A-4-28. A nonveteran spouse, widow, or widower, upon admission, shall be considered a ~~member~~ resident of the State ~~Veterans'~~ Veterans Home and be subject to all rules and statutes affecting the person, property, and estate of a veteran ~~member~~ resident.

Section 27. That § 33A-4-29 be AMENDED:

33A-4-29. All applications for admission to the State ~~Veterans'~~ Veterans Home ~~shall~~ must be made ~~in writing~~ upon ~~blank~~ prescribed forms~~, which shall be~~ furnished by the ~~superintendent~~ Department of Veterans Affairs. ~~Such~~ The applications ~~shall be filled out by the applicant, and~~ must include information as to military service, a full financial statement, essential medical information, ~~and proof of residence,~~ and ~~shall include~~ a stipulation that if any such claims are proved false, the applicant forfeits any right to ~~membership in~~ residency at the home.

Section 28. That § 33A-4-30 be AMENDED:

33A-4-30. Application for admission to the State ~~Veterans'~~ Veterans Home ~~shall berecommended~~ are approved by ~~the county, tribal, local veteran's organization service officer, or personnel of~~ the Department of Veterans Affairs. ~~Upon receipt of an application, complete with essential information to qualify the applicant for admission to the home, the superintendent may admit the applicant.~~

Section 29. That § 33A-4-31 be AMENDED:

33A-4-31. Furloughs from the State ~~Veterans'~~ Veterans Home may be granted at the discretion of the superintendent, but a ~~member~~ resident on furlough for more than ninety days ~~shall be~~ is deemed to have surrendered ~~his~~ the room and ~~on his~~ upon return ~~shall~~ must be put on the regular waiting list.

Section 30. That § 33A-4-32 be AMENDED:

33A-4-32. Any ~~member~~ resident of the State ~~Veterans'~~ Veterans Home may be ~~required to accept an honorable discharge~~ discharged, with the exception of a veteran with one hundred percent disability as defined by the ~~veterans administration~~ Veterans Administration for pension and compensation purposes, if ~~he~~ the resident has sufficient ability and means ~~to support himself~~ for self-support. ~~Such~~The discharge ~~shall be given~~ may only be made upon recommendation of the superintendent and order of the secretary of veterans affairs.

Section 31. That § 33A-4-33 be AMENDED:

33A-4-33. The superintendent may, if there is room ~~for all dependent applicants and members~~, admit and allow to remain in the State ~~Veterans'~~ Veterans Home, persons who have sufficient means for their own support, care, and maintenance, but are otherwise eligible to become ~~members~~ residents of the home, on payment of the cost of their ~~support~~ care.

Section 32. That § 33A-4-34 be REPEALED:

~~No person may be received or retained in the State Veterans' Home who is mentally ill, is an inebriate, or is addicted to the use of drugs.~~

Section 33. That § 33A-4-35 be AMENDED:

33A-4-35. If a ~~member~~ resident of the State ~~Veterans'~~ Veterans Home is discharged from the home, or voluntarily leaves the home, or is adjudged mentally ill after admittance, the ~~member's~~ resident's residence is that of the county in which the ~~member~~ resident was residing at the time of the ~~member's~~ resident's admittance to the home.

Section 34. That § 33A-4-36 be AMENDED:

33A-4-36. Each ~~member~~ resident of the State ~~Veterans'~~ Veterans Home is deemed a resident of the county in which the ~~member~~ resident was residing at the time of admittance to the home and does not lose ~~his or her~~ residence or the right to vote in the county.

Section 35. That § 33A-5-5 be AMENDED:

33A-5-5. All expenses incurred under the provisions of §§ 33A-5-2 ~~to~~ and 33A-5-4~~, inclusive,~~ ~~shall~~ may only be approved, allowed, and certified by the county or tribal ~~veterans'~~ veterans service officer or ~~field officer~~ employee of the Department of Veterans Affairs upon forms provided by the Department of Veterans Affairs. The county or tribal ~~veteran's~~ veterans service officer ~~or field officer~~ shall forward the forms to the Department of Veterans Affairs. The department shall certify and forward the forms to the state auditor.

Upon receipt of the certified forms, the state auditor shall draw a warrant on the state treasurer in favor of the person or persons entitled to the payment for the amount specified on the forms.

Signed February 22, 2023

Chapter 112

(House Bill 1045)

An Act to increase the basic salary schedule for county veterans' service officers.

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

Section 1. That § 33A-1-32 be AMENDED:

33A-1-32. The basic salary schedule for county veterans' service officers, which may be adopted by any board of county commissioners, is:

(1) For counties with population of 50,000 and over, ~~$18,750 per annum~~$20,625 a year;

(2) For counties with population of 20,000 to 50,000, ~~$17,500 per annum~~$19,250 a year;

(3) For counties with population of 10,000 to 20,000, ~~$15,000 per annum~~$16,500 a year;

(4) For counties with population of 5,000 to 10,000, ~~$11,250 per annum~~$12,375 a year; and

(5) For counties with population up to 5,000, ~~$7,500 annually~~$8,250 a year.

Signed March 16, 2023

Chapter 113

(House Bill 1054)

An Act to provide a stipend for the erection of a private headstone for a deceased veteran.

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

Section 1. That § 33A-5-4 be AMENDED:

33A-5-4. If a headstone is provided by the United States government for the purpose of marking the grave of a veteran who had been a resident of South Dakota for one year preceding entrance into military service or preceding death or if a memorial headstone or marker is provided by the United States government to commemorate any member of the armed forces of the United States dying in the service, whose remains have not been recovered or identified or were buried at sea, the veterans' service officer or field officer shall cause the headstone or memorial headstone or marker to be erected. The expense of erecting the headstone or memorial headstone or marker ~~shall~~ must be paid by the state and may not exceed one hundred dollars. No payment for the expense is allowed unless a claim is filed ~~or presented to~~ with the Department of Veterans Affairs within one year ~~subsequent to~~ of the date the headstone or memorial headstone or marker is erected.

An individual responsible for the execution of the estate of a deceased veteran authorized to receive a headstone or memorial headstone or marker may elect to purchase a headstone at personal expense but may receive the one-hundred-dollar state stipend for erecting the headstone or memorial headstone or marker if the name, rank, branch of service, and dates of birth and death of the veteran are professionally etched on the backside of the headstone.

Section 2. That § 33A-5-5 be AMENDED:

33A-5-5. All public expenses incurred under the provisions of §§ 33A-5-2 to 33A-5-4, inclusive, shall be approved, allowed, and certified by the county or tribal veterans' service officer or field officer of the Department of Veterans Affairs upon forms provided by the Department of Veterans Affairs. The county or tribal veteran's service officer or field officer shall forward the forms to the Department of Veterans Affairs. The department shall certify and forward the forms to the state auditor.

Upon receipt of the certified forms, the state auditor shall draw a warrant on the state treasurer in favor of the person or persons entitled to the payment for the amount specified on the forms.

Signed February 27, 2023

Chapter 114

(House Bill 1065)

An Act to increase the maximum amount of dollars payable by the state to erect the headstone of a deceased veteran.

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

Section 1. That § 33A-5-4 be AMENDED:

33A-5-4. If a headstone is provided by the United States government for the purpose of marking the grave of a veteran who had been a resident of South Dakota for one year preceding entrance into military service or preceding death or if a memorial headstone or marker is provided by the United States government to commemorate any member of the armed forces of the United States dying in the service, whose remains have not been recovered or identified or were buried at sea, the veterans' service officer or field officer shall cause the headstone or memorial headstone or marker to be erected. The expense of erecting the headstone or memorial headstone or marker ~~shall~~ must be paid by the state and may not exceed ~~one~~ two hundred dollars. No payment for the expense is allowed unless a claim is filed ~~or presented to~~ with the Department of Veterans Affairs within one year ~~subsequent to~~ of the date the headstone or memorial headstone or marker is erected.

Signed March 16, 2023

PUBLIC HEALTH AND SAFETY

Chapter 115

(Senate Bill 180)

An Act to address requirements for the execution of a living will.

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

Section 1. That § 34-12D-2 be AMENDED:

34-12D-2. A competent adult may at any time execute a declaration governing the withholding or withdrawal of life-sustaining treatment. The declaration ~~shall~~ must be signed by the declarant, or by another at the declarant's direction, and witnessed by two ~~adult individuals. The signing may be in the presence of~~ adults, or by a notary public who shall thereafter notarize the declaration.

A declaration ~~shall~~ must state the declarant's preferences regarding ~~whether the declarant wishes to receive or not receive~~ the provision, withholding, or withdrawal of artificial nutrition and hydration.

If the declaration does not state the declarant's preferences ~~with respect to~~ regarding the provision, withholding, or withdrawal of artificial nutrition and hydration, ~~whether~~ any determination regarding the provision, withholding, or withdrawal of artificial nutrition and hydration is ~~to be provided, withheld, or withdrawn shall be~~ governed by the ~~law~~ laws of this state ~~which would apply~~ that apply in the absence of a declaration.

Signed March 23, 2023

Chapter 116

(House Bill 1155)

An Act to add dental practices as eligible facilities to participate in the rural health care recruitment assistance program.

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

Section 1. That § 34-12G-11 be AMENDED:

34-12G-11. A rural health care facility is eligible to participate in the recruitment assistance program ~~is any rural health care~~ if the facility ~~which~~:

(1) Is located in a community with a population of ten thousand or less;

(2) Is ~~licensed~~:

(a) Licensed pursuant to chapter 34-12 ~~or certified~~;

(b) A dental practice; or

(c) Certified under Title XVIII or XIX of the Social Security Act as amended through December 31, 2011; and

(3) Agrees to provide its portion of the recruitment assistance payment payable to a health care professional who practices in the health care facility as required by §§ 34-12G-10 to 34-12G-17, inclusive.

A rural health care facility may have up to three eligible health care professionals per year participate in the program.

Signed March 23, 2023

Chapter 117

(Senate Bill 67)

An Act to revise provisions related to emergency and involuntary commitment for alcohol and drug abuse.

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

Section 1. That § 34-20A-2 be AMENDED:

34-20A-2. Terms used in this chapter mean:

(1) "Accredited prevention or treatment facility," a private or public agency meeting the standards prescribed in § 34-20A-27 or a private or public agency or facility surveyed and accredited by ~~the~~ The Joint Commission; an Indian Health Service's quality assurance review under the Indian Health Service Manual, Professional Standards-Alcohol/Substance Abuse; or the Commission on Accreditation of Rehabilitation Facilities; or the Council on Accreditation; under the drug and alcohol treatment standards incorporated and adopted by the division in rules promulgated pursuant to chapter 1-26, if proof of the accreditation, with accompanying recommendations, progress reports and related correspondence are submitted to the division in a timely manner;

(2) "Addiction counselor," a person licensed or certified as an addiction counselor by the South Dakota Board of Addiction and Prevention Professionals;

(3) "Alcoholic," a person who habitually lacks self-control as to the use of alcoholic beverages, or uses alcoholic beverages to the extent that the person's health is substantially impaired or endangered or the person's social or economic function is substantially disrupted;

(4) "Department," the Department of Social Services;

~~(5) "Designated prevention or treatment facility," an accredited agency operating under the direction and control of the state or providing services under this chapter through a contract with the division or treatment facilities operated by the federal government that may be designated by the division without accreditation by the state;~~

~~(6)~~(5) "Division," the Division of Behavioral Health within the department;

~~(7)~~(6) "Drug abuser," a person who habitually lacks self-control as to the use of controlled drugs or substances as defined in § 34-20B-3 to the extent that the person's health is substantially impaired or endangered or that the person's social or economic function is substantially disrupted;

~~(8)~~(7) "Incapacitated by the effects of alcohol or ~~other~~ drugs," that a person, as a result of the use of alcohol or other drugs, is unconscious or the person's judgment is otherwise so impaired that the person is incapable of realizing and making a rational decision with respect to the person's need for treatment;

~~(9)~~(8) "Incompetent person," a person who has been adjudged incompetent by the circuit court;

~~(10)~~(9) "Intoxicated person," a person who demonstrates diminished mental or physical capacity while under the influence of alcohol or other drugs;

~~(11)~~(10) "Prevention," purposeful activities designed to promote personal growth of a person and strengthen the aspects of the community environment that are supportive to the person in order to preclude, prevent, or impede the development of alcohol or other drug misuse and abuse; and

~~(12) "Secretary," the secretary of the Department of Social Services~~;

~~(13)~~(11) "Treatment," the broad range of emergency, outpatient, intermediate, and inpatient services and care, including diagnostic evaluation, that may be extended to a person experiencing problems as a result of the use of alcohol or other drugs.

Section 2. That chapter 34-20A be amended with a NEW SECTION:

For the purposes of this chapter, the term, next of kin, means, in order of priority stated, the person's:

(1) Spouse, if not legally separated;

(2) Adult son or daughter;

(3) Parent; and

(4) Adult brother or sister.

Section 3. That § 34-20A-63 be AMENDED:

34-20A-63. An intoxicated person, or a person receiving treatment for withdrawal management, may be detained in an approved treatment facility for emergency treatment if the person:

(1) Has threatened, attempted, or inflicted physical harm on oneself or on another or is likely to inflict physical harm on another unless detained;

(2) Is incapacitated by the effects of alcohol or drugs; or

(3) Is pregnant and abusing alcohol or drugs.

A refusal to undergo treatment does not constitute evidence of lack of judgment as to the need for treatment.

Section 4. That § 34-20A-68 be AMENDED:

34-20A-68. If, after the person detained under § 34-20A-63 completes treatment, the administrator or an authorized designee determines that the grounds for emergency detainment no longer exist, the facility shall discharge the person ~~detained under § 34-20A-63 shall be discharged~~, unless a petition for involuntary commitment under § 34-20A-70 has been filed.

Section 5. That § 34-20A-69 be AMENDED:

34-20A-69. No person detained under § 34-20A-63 may be detained in any treatment facility for more than five days, excluding Saturdays, Sundays, and legal holidays, except as follows. If a petition for involuntary commitment under § 34-20A-70 has been filed within the five days, excluding Saturdays, Sundays, and legal holidays, ~~and the administrator of an approved treatment facility or an authorized designee finds that grounds for emergency detainment still exist,~~ the administrator or authorized designee may detain the person until the petition has been heard and determined, but no longer than ten days, excluding Saturdays, Sundays, and legal holidays, after ~~filing~~ the date the petition was filed.

Section 6. That § 34-20A-70 be AMENDED:

34-20A-70. A person may be committed by the circuit court upon the petition of the person's spouse or guardian, a relative, a physician, the administrator of any approved treatment facility, or any other responsible person. Any person applying for commitment shall do so to the circuit court through the clerk of courts of the county in which the person to be committed resides or is present. The circuit court judge, upon receipt of a written application prepared by the clerk of courts, shall appoint an attorney to represent the applicant. The appointed attorney shall investigate the grounds upon which the application is based and shall within five days, excluding Saturdays, Sundays, and legal holidays, submit ~~a petition for commitment and~~ a written report to the circuit court as to whether probable cause exists that the person subject of the petition is an alcoholic or drug abuser. All information obtained as a result of the investigation and written report shall be documented and made a part of the record of any further proceedings. The petition shall allege that the person is an alcoholic or drug abuser who habitually lacks self-control as to the use of alcoholic beverages or other drugs and:

(1) Has threatened, attempted, or inflicted physical harm on himself or herself or on another and that unless committed is likely to inflict harm on himself or herself or on another; or

(2) Is incapacitated by the effects of alcohol or drugs; or

(3) Is pregnant and abusing alcohol or drugs.

A refusal to undergo treatment does not constitute evidence of lack of judgment as to the need for treatment.

Section 7. That § 34-20A-70.2 be AMENDED:

34-20A-70.2. ~~The~~ Any application for emergency detainment, petition for commitment, ~~written~~ application, ~~and~~ for commitment, order for a court-appointed examination, or written report to the circuit court ~~and the resulting protective custody order required by § 34-20A-70 shall~~ must be sealed and may not be used for the purpose of enforcing the provisions of chapter 22-42 and chapter 22-42A against the person being committed. Any law enforcement official or prosecuting attorney may petition the circuit court to examine these documents, and the court may allow such examination upon a showing that the purpose of the examination is not to investigate a violation of chapter 22-42 or chapter 22-42A against the person being committed. ~~However, any~~ Any information obtained from the examination of the application for emergency detainment, petition for commitment, ~~written~~ application for commitment, order for a court-appointed examination, or written report ~~, or protective custody order~~ to the circuit court may not be used against the person being committed in any prosecution for a violation of chapter 22-42 or chapter 22-42A.

Section 8. That chapter 34-20A be amended with a NEW SECTION:

If the person whose commitment is sought is not being detained in a facility under § 34-20A-63, a request for an examination of the person by a licensed physician or addiction counselor must be filed with the court. The court may order an examination of the person by a licensed physician or addiction counselor and shall provide notice to the person whose commitment is sought of the request for an examination.

Section 9. That § 34-20A-72 be AMENDED:

34-20A-72. A petition filed under § 34-20A-70 ~~shall~~ for a person who is detained under § 34-20A-63 must be accompanied by a certificate of a licensed physician or an addiction counselor ~~either of whom~~ who has examined the person within ~~two~~ five days before submission of the petition, unless the person ~~whose commitment is sought~~ has refused to submit to ~~a medical~~ an examination ~~or counselor assessment in which case~~. If the person has refused to submit to an examination, the fact of refusal ~~shall~~ must be alleged in the petition. If the person refuses the release of examination or certification information, the circuit court shall order the release of the information if good cause is shown.

The certificate ~~shall~~ must set forth the physician's or the addiction counselor's findings in support of the allegations of the petition and a level of care recommendation for substance use treatment. ~~A~~

An admitting facility may not provide treatment to the person whose commitment is sought if the physician or addiction counselor who provides a certificate under this section is employed by the admitting facility ~~is not eligible to provide certification~~, unless the person to be committed requests to receive treatment at the facility.

Section 10. That § 34-20A-73 be AMENDED:

34-20A-73. Upon filing of a petition under § 34-20A-70, the court shall fix a date for a hearing no later than ten days, excluding Saturdays, Sundays, and legal holidays, after the date the petition was filed. A copy of the petition and of the notice of the hearing, including the date fixed by the court, must be personally served on the person whose commitment is sought and served by mail on the petitioner, ~~the person whose commitment is sought,~~ the person's next of kin other than the petitioner, a parent or guardian if a minor, the administrator in charge of the approved treatment facility to which the person has been under emergency detainment, if applicable, and any other person the court believes advisable. ~~A copy of the petition and certificate must be delivered to each person notified.~~

Upon service of the petition, the person whose commitment is sought must be notified, in writing, of the person's right to be represented by counsel at every stage of any proceedings relating to commitment, and that if the person is unable to obtain counsel, the court may appoint one to the person.

Section 11. That § 34-20A-75 be AMENDED:

34-20A-75. At the hearing the court shall hear all relevant testimony, including, if possible, the testimony of at least one licensed physician ~~and~~ or one addiction counselor who ~~have~~ has examined the person whose commitment is sought.

Signed March 23, 2023

Chapter 118

(House Bill 1162)

An Act to authorize employers to acquire and make available opioid antagonists.

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

Section 1. That chapter 34-20A be amended with a NEW SECTION:

A licensed health care professional may, directly or by standing order, dispense or distribute an opioid antagonist to an employer.

An employer may acquire and make available on the employer's premises an opioid antagonist that is dispensed or distributed by a licensed health care professional, in accordance with this section, if the employer:

(1) Develops a protocol for the transport, storage, maintenance, and location of the opioid antagonist;

(2) Provides training and instruction, developed by the Department of Health and made available on the Department of Health website, to employees or personnel authorized to administer an opioid antagonist on the employer's premises; and

(3) Prominently posts instructions on the administration of an opioid antagonist and post-administration protocol, if the employer makes it accessible to the public.

An employer, employee, or other authorized personnel of an employer may not be held liable for any death, injury, or damage that arises out of the administration of, the self-administration of, or the failure to administer an opioid antagonist, if such action or inaction constitutes ordinary negligence.

Section 2. That § 34-20A-106 be AMENDED:

34-20A-106. A health care professional who is authorized to prescribe or dispense an opioid antagonist is not subject to any disciplinary action or civil or criminal liability for the prescribing or dispensing of an opioid antagonist to an employer or a person whom the health care professional reasonably believes may be in a position to assist or administer the opioid antagonist to a person at risk for an opioid-related drug overdose.

Signed March 8, 2023

Chapter 119

(Senate Bill 27)

An Act to place certain substances on the controlled substances schedule and to declare an emergency.

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

Section 1. That § 34-20B-1 be AMENDED:

34-20B-1. Terms as used in this chapter mean:

(1) "Administer," to deliver a controlled drug or substance to the ultimate user or human research subject by injection, inhalation, or ingestion, or by any other means;

(2) "Agent," an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser and includes a common or contract carrier, public warehouseman, or employee thereof;

(3) "Control," to add, remove, or change the placement of a drug, substance, or immediate precursor under §§ 34-20B-27 and 34-20B-28;

(4) "Controlled substance analogue," any of the following:

(a) A substance that differs in its chemical structure from a controlled substance listed in or added to Schedule I or II only by substituting one or more hydrogens with halogens, or by substituting one halogen with a different halogen;

(b) A substance that is an alkyl homolog of a controlled substance listed in or added to Schedule I or II; or

(c) A substance intended for human consumption:

(i) The chemical structure of which is substantially similar to the chemical structure of a controlled substance in Schedule I or II; or

(ii) That has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to, or greater than, the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II;

The term, controlled substance analogue, does not include a controlled substance or any substance for which there is an approved new drug application;

(5) "Counterfeit substance," a controlled drug or substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person or persons who manufactured, distributed, or dispensed such substance and which thereby falsely purports or is represented to be the product of, or to have been distributed by, such other manufacturer, distributor, or dispenser;

~~(5)~~(6) "Deliver" or "delivery," the actual, constructive, or attempted transfer of a controlled drug, substance, or marijuana whether or not there exists an agency relationship;

~~(6)~~(7) "Department," the Department of Health created by chapter 1-43;

~~(7)~~(8) "Dispense," to deliver a controlled drug or substance to the ultimate user or human research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for such delivery, and a dispenser is one who dispenses;

~~(8)~~(9) "Distribute," to deliver a controlled drug, substance, or marijuana. A distributor is a person who delivers a controlled drug, substance, or marijuana;

~~(9)~~(10) "Hashish," the resin extracted from any part of any plant of the genus cannabis that contains a delta-9 tetrahydrocannabinol concentration of more than three-tenths of one percent on a dry weight basis;

~~(10)~~(11) "Imprisonment," imprisonment in the state penitentiary unless the penalty specifically provides for imprisonment in the county jail;

~~(11)~~(12) "Manufacture," the production, preparation, propagation, compounding, or processing of a controlled drug or substance, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis. A manufacturer includes any person who packages, repackages, or labels any container of any controlled drug or substance, except practitioners who dispense or compound prescription orders for delivery to the ultimate consumer;

~~(12)~~(13) "Marijuana," all parts of any plant of the genus cannabis, whether growing or not; the seeds thereof; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant or its seeds. The term does not include fiber produced from the mature stalks of the plant, or oil or cake made from the seeds of the plant, the resin when extracted from any part of the plant, or ~~cannabidiol in~~a drug product approved by the United States Food and Drug Administration. The term does not include the plant Cannabis sativa L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent on a dry weight basis;

~~(13)~~(14) "Narcotic drug," any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(a) Opium, coca leaves, ~~and~~ or opiates;

(b) A compound, manufacture, salt, derivative, or preparation of opium, coca leaves, or opiates;

(c) A substance ~~(~~, and any compound, manufacture, salt, derivative, or preparation thereof~~) which~~, that is chemically identical ~~with~~ to any of the substances referred to in subsections (a) and (b) of this subdivision;

~~except that the~~The term, narcotic drug, ~~as used in this chapter~~ does not include decocainized coca leaves or extracts of coca leaves, which extracts do not contain cocaine or ecgonine;

~~(14)~~(15) "Opiate" or "Opioid," any controlled drug or substance having an addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability;

~~(15)~~(16) "Opium poppy," the plant of the species papaver somniferum L., except the seeds thereof;

~~(16)~~(17) "Person," any corporation, association, limited liability company, partnership, or one or more individuals;

~~(17)~~(18) "Poppy straw," all parts, except the seeds, of the opium poppy, after mowing;

~~(18)~~(19) "Practitioner," ~~a doctor of medicine, osteopathy, podiatry, optometry, dentistry, or veterinary medicine licensed to practice their profession, or pharmacists licensed to practice their profession; physician assistants certified to practice their profession; certified nurse practitioners, certified nurse midwives, and certified registered nurse anesthetists to practice their profession~~:

(a) A physician licensed pursuant to chapter 36-4, a physician assistant licensed pursuant to chapter 36-4A, a dentist licensed pursuant to chapter 36-6A, an optometrist licensed pursuant to chapter 36-7, a podiatrist licensed pursuant to chapter 36-8, a certified registered nurse anesthetist licensed pursuant to chapter 36-9, a certified nurse practitioner or certified nurse midwife licensed pursuant to chapter 36-9A, a pharmacist licensed pursuant to chapter 36-11, or a veterinarian licensed pursuant to chapter 36-12;

(b) A government ~~employees~~ employee acting within the scope of ~~their~~ employment; and ~~persons~~

(c) A person permitted by ~~certificates~~ a certificate issued by the department to distribute, dispense, conduct research with respect to, or administer a substance controlled by this chapter;

~~(19)~~(20) "Prescribe," an order of a practitioner for a controlled drug or substance~~.~~;

~~(20)~~(21) "Production," the manufacture, planting, cultivation, growing, or harvesting of a controlled drug or substance;

~~(21) "State," the State of South Dakota;~~

~~(22)~~(22) "Ultimate user," a person who lawfully possesses a controlled drug or substance for personal use or for the use of a member of the person's household, or for administration to an animal owned by the person or by a member of the person's household~~;~~

~~(23) "Controlled substance analogue," any of the following:~~

~~(a) A substance that differs in its chemical structure to a controlled substance listed in or added to the schedule designated in schedule I or II only by substituting one or more hydrogens with halogens or by substituting one halogen with a different halogen; or~~

~~(b) A substance that is an alkyl homolog of a controlled substance listed in or added to schedule I or II; or~~

~~(c) A substance intended for human consumption; and~~

~~(i) The chemical structure of which is substantially similar to the chemical structure of a controlled substance in schedule I or II;~~

~~(ii) Which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in schedule I or II; or~~

~~(iii) With respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that~~

~~is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in schedule I or II;~~

~~However, the term, controlled substance analogue, does not include a controlled substance or any substance for which there is an approved new drug application~~.

Section 2. That § 34-20B-14 be AMENDED:

34-20B-14. Any material, compound, mixture, or preparation that contains any quantity of the following hallucinogenic substances, their salts, isomers, and salts of isomers, is included in Schedule I, unless specifically excepted, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Bufotenine;

(2) Diethyltryptamine (DET);

(3) Dimethyltryptamine (DMT);

(4) 5-methoxy-N, N-Dimethyltryptamine (5-MeO-DMT);

(5) 5-methoxy-3, 4-methylenedioxy amphetamine;

(6) 4-bromo-2, 5-dimethoxyamphetamine;

(7) 4-methoxyamphetamine;

(8) 4-methoxymethamphetamine;

(9) 4-methyl-2, 5-dimethoxyamphetamine;

(10) Hashish and hash oil;

(11) Ibogaine;

(12) Lysergic acid diethylamide;

(13) Mescaline;

(14) N-ethyl-3-piperidyl benzilate;

(15) N-methyl-3-piperidyl benzilate;

(16) 1-(-(2-thienyl)cyclohexyl) piperidine (TCP);

(17) Peyote, except that when used as a sacramental in services of the Native American church in a natural state which is unaltered except for drying or curing and cutting or slicing, it is hereby excepted;

(18) Psilocybin;

(19) Psilocyn;

(20) Tetrahydrocannabinol, ~~other than~~ except that which occurs in industrial hemp as defined in § 38-35-1; in a drug product approved by the United States Food and Drug Administration; or marijuana in its natural and unaltered state~~;~~; including any compound, except nabilone or compounds listed under a different schedule, structurally derived from 6,6N dimethyl-benzo[c]chromene by substitution at the 3-position with either alkyl (C3 to C8), methyl cycloalkyl, or adamantyl groups, whether or not the compound is further modified in any of the following ways:

(a) By partial to complete saturation of the C-ring; or

(b) By substitution at the 1-position with a hydroxyl or methoxy group; or

(c) By substitution at the 9-position with a hydroxyl, methyl, or methylhydoxyl group; or

(d) By modification of the possible 3-alkyl group with a 1,1N dimethyl moiety, a 1,1N cyclic moiety, an internal methylene group, an internal acetylene group, or a terminal halide, cyano, azido, or dimethylcarboxamido group.

Some trade and other names: JWH-051; JWH-057; JWH-133; JWH-359; HHC; AM-087; AM-411; AM-855, AM-905; AM-906; AM-2389; HU-210; HU-211; HU-243; HU-336;

(21) 3, 4, 5-trimethoxy amphetamine;

(22) 3, 4-methylenedioxy amphetamine;

(23) 3-methoxyamphetamine;

(24) 2, 5-dimethoxyamphetamine;

(25) 2-methoxyamphetamine;

(26) 2-methoxymethamphetamine;

(27) 3-methoxymethamphetamine;

(28) Phencyclidine;

(29) 3, 4-methylenedioxymethamphetamine (MDMA);

(30) 3, 4-methylenedioxy-N-ethylamphetamine;

(31) N-hydroxy-3, 4-methylenedioxyamphetamine;

(32) 4-methylaminorex (also known as 2-Amino-4-methyl/x-5-phenyl-2-oxazoline);

(33) 2,5 Dimethoxy-4-ethylamphetamine;

(34) N,N-Dimethylamphetamine;

(35) 1-(1-(2-thienyl)cyclohexyl)pyrrolidine;

(36) Aminorex;

(37) 4,4'-Dimethylaminorex (4,4'-DMAR; 4,5-dihydro-4-methyl-5-(4-methylphenyl)-2-oxazolamine; 4-methyl-5-(4-methylphenyl)-4,5-dihydro-1,3-oxazol-2-amine);

(38) Cathinone and other variations, defined as any compound, material, mixture, preparation or other product unless listed in another schedule or an approved FDA drug ~~(e.g. buproprion, pyrovalerone)~~, structurally derived from 2-aminopropan-1-one by substitution at the 1-position with either phenyl, naphthyl, or thiophene ring systems, whether or not the compound is further modified in any of the following ways:

(a) By substitution in the ring system to any extent with alkyl, alkylenedioxy, alkoxy, haloalkyl, hydroxyl, or halide substituents, whether or not further substituted in the ring system by one or more other univalent substitutents;

(b) By substitution at the 3-position with an acyclic alkyl substituent;

(c) By substitution at the 2-amino nitrogen atom with alkyl, dialkyl,

benzyl, or methoxybenzyl groups or by inclusion of the 2-amino nitrogen atom in a cyclic structure.

Some trade or other names: methcathinone, 4-methyl-N-methylcathinone (mephedrone); 3,4-methylenedioxy-N-methylcathinone (methylone); 3,4-methylenedioxypyrovalerone (MDPV); Naphthylpyrovalerone (naphyrone); 4-flouromethcathinone (flephedrone); 4-methoxymethcathinone (methedrone; Bk-PMMA); Ethcathinone (N-Ethylcathinone); 3,4-methylenedioxyethcathinone (ethylone); Beta-keto-N-methyl-3,4-benzodioxyolybutanamine (butylone); N,N-dimethylcathinone (metamfepramone); Alpha-pyrrolidinopropiophenone (alpha-PPP); 4-methoxy-alpha-pyrrolidinopropiophenone (MOPPP); 3,4-methylenedioxyalphapyrrolidinopropiophenone (MDPPP); Alpha-pyrrolidinovalerophenone (alpha-PVP); 3-fluoromethcathinone; 4N-Methyl-alpha-pyrrolidinobutiophenone (MPBP); Methyl-α-pyrrolindinopropiophenone (MPPP); Methyl-α-pyrrolidino-hexanophenone (MPHP); Buphedrone; Methyl-N-ethylcathinone; Pentedrone; Dimethylmethcathinone (DMMC); Dimethylethcathinone (DMEC); Methylenedioxymethcathinone (MDMC); Pentylone; Ethylethcathinone; Ethylmethcathinone; Fluoroethcathinone; methyl-alpha-pyrrolidinobutiophenone (MPBP); Methylecathinone (MEC); Methylenedioxy-alpha-pyrrolidinobutiophenone (MDPBP); Methoxymethcathinone (MOMC); Methylbuphedrone (MBP); Benzedrone (4-MBC); Dibutylone (DMBDB); Dimethylone (MDDMA); Diethylcathinone; Eutylone (EBDB); N-ethyl-N-Methylcathinone; N-ethylbuphedrone, 1-(1,3-benzodioxol-5-yl)2-(ethylamino)pentan-1-one (N-Ethylpentylone); 4'-Methyl-alpha-pyrrolidinopropiophenone (4-MEPPP, MPPP or MαPPP); alpha-Pyrrolidinobutiophenone (α;PBP); 1-(1,3-benzodioxol-5-yl)-2-(tert-butylamino)propan-1-one (Tertylone); 1-(1,3-benzodioxol-5-yl)-2-(ethylamino)hexan-1-one (N-ethyl Hexylone); 1-(1,3-benzodioxol-5-yl)-2-(methylamino)pntan-1-one (Pentylone); N-ethylhexedrone (α ethylaminohexanophenone); alpha-pyrrolidinohexanophenone (α-PHP); 4-methyl-alpha-ethylaminopentiophenone (4-MEAP); 4'-methyl-alpha-pyrrolidinohexiophenone (MPHP); alpha-pyrrolidinoheptaphenone (PV8); 4'-chloro-alpha-pyrrolidinovalerophenone (4-chloro-α-PVP);

(39) 2,5-Dimethoxy-4-ethylamphetamine (DOET);

(40) Alpha-ethyltryptamine;

(41) 4-Bromo-2,5-dimethoxy phenethylamine;

(42) 2,5-dimethoxy-4-(n)-propylthiophenethylamine (2C-T-7);

(43) 1-(3-trifluoromethylphenyl) piperazine (TFMPP);

(44) Alpha-methyltryptamine (AMT);

(45) 5-methoxy-N,N-diisopropyltryptamine (5-MeO-DIPT);

(46) 5-methoxy-N,N-dimethyltryptamine (5-MeO-DMT);

(47) Synthetic cannabinoids. Any material, compound, mixture, or preparation that is not listed as a controlled substance in another schedule, is not an FDA-approved drug, and contains any quantity of the following substances, their salts, isomers (whether optical, positional, or geometric), homologues, modifications of the indole ring by nitrogen heterocyclic analog substitution or nitrogen heterocyclic analog substitution of the phenyl, benzyl, naphthyl, adamantly, cyclopropyl, cumyl, or propionaldehyde structure, and salts of isomers, homologues, and modifications, unless specifically excepted, whenever the existence of

these salts, isomers, homologues, modifications, and salts of isomers, homologues, and modifications is possible within the specific chemical designation:

(a) Naphthoylindoles. Any compound containing a 2-(1-naphthoyl)indole or 3-(1-naphthoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinhyl)methyl, 2-(4-morpholinyl)ethyl, cyanoalky, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, (tetrahydropyran-4-yl)methyl, benzyl, or halobenzyl group, whether or not further substituted on the indole ring to any extent and whether or not substituted on the naphthyl ring to any extent.

Some trade or other names: JWH-015; 1-pentyl-3-(1-naphthoyl)indole (JWH-018); 1-hexyl-3-(1-naphthoyl)indole (JWH-019); 1-butyl-3-(1-naphthoyl)indole (JWH-073); 1-pentyl-3-[1-(4-methoxynaphthoyl)]indole (JWH-081); 1-pentyl-3-(4-methyl-1-naphthoyl)indole (JWH-122); 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole (JWH-200); JWH-210; JWH-398; 1-pentyl-3-(1-naphthoyl)indole (AM-678); 1-(5-fluoropentyl)-3-(1-naphthoyl)indole (AM-2201); WIN 55-212; JWH-004; JWH-007; JWH-009; JWH-011; JWH-016; JWH-020; JWH-022; JWH-046; JWH-047; JWH-048; JWH-049; JWH-050; JWH-070; JWH-071; JWH-072; JWH-076; JWH-079; JWH-080; JWH-082; JWH-094; JWH-096; JWH-098; JWH-116; JWH-120; JWH-148; JWH-149; JWH-164; JWH-166; JWH-180; JWH-181; JWH-182; JWH-189; JWH-193; JWH-198; JWH-211; JWH-212; JWH-213; JWH-234; JWH-235; JWH-236; JWH-239; JWH-240; JWH-241; JWH-258; JWH-262; JWH-386; JWH-387; JWH-394; JWH-395; JWH-397; JWH-399; JWH-400; JWH-412; JWH-413; JWH-414; JWH-415; JWH-424; AM-678; AM-1220; AM-1221; AM-1235; AM-2232, THJ-2201;

(b) Naphthylmethylindoles. Any compound containing a 1H-indol-2-yl-(1-naphthyl)methane or 1H-indol-3-yl-(1-naphthyl)methane structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, cyanoalky, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, (tetrahydropyran-4-yl)methyl, benzyl, or halobenzyl group, whether or not further substituted on the indole ring to any extent and whether or not substituted on the naphthyl ring to any extent.

Some trade or other names: JWH-175; JWH-184; JWH-185; JWH-192; JWH-194; JWH-195; JWH-196; JWH-197; JWH-199;

(c) Phenylacetylindoles. Any compound containing a 2-phenylacetylindole or 3-phenylacetylindole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl, cyanoalky, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, (tetrahydropyran-4-yl)methyl, benzyl, or halobenzyl group, whether or not further substituted on the indole ring to any extent and whether or not substituted on the phenyl ring to any extent.

Some trade or other names: 1-cyc lohexylethyl-3-(2-methoxyphenylacetyl)indole (SR-18); 1-cyclohexylethyl-3-(2-methoxyphenylacetyl)indole (RCS-8); 1-pentyl-3-(2-methoxyphenylacetyl)indole (JWH-250); 1-pentyl-3-(2-chlorophenylacetyl)indole (JWH-203); JWH-167; JWH-201; JWH-202; JWH-204; JWH-205; JWH-206; JWH-207; JWH-208; JWH-209; JWH-237; JWH-248; JWH-249; JWH-251; JWH-253; JWH-302; JWH-303; JWH-304; JWH-305; JWH-306; JWH-311; JWH-312; JWH-313; JWH-314; JWH-315; JWH-316; Cannabipiperidiethanone;

(d) Benzoylindoles. Any compound containing a 2-(benzoyl)indole or 3-(benzoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, cyanoalky, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, (tetrahydropyran-4-yl)methyl, benzyl, or halobenzyl group, whether or not further substituted on the indole ring to any extent and whether or not substituted on the phenyl ring to any extent.

Some trade or other names: 1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole (AM-694); 1-pentyl-3-[(4-methoxy)-benzoyl]indole (SR-19); Pravadoline (WIN 48,098); 1-pentyl-3-[(4-methoxy)-benzoyl]indole (RCS-4); AM-630; AM-661; AM-2233; AM-1241;

(e) Naphthoylpyrroles. Any compound containing a 2-(1-naphthoyl)pyrrole or 3-(1-naphthoyl)pyrrole structure with substitution at the nitrogen atom of the pyrrole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, cyanoalky, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, (tetrahydropyran-4-yl)methyl, benzyl, or halobenzyl group, whether or not further substituted on the pyrrole ring to any extent and whether or not substituted on the naphthyl ring to any extent.

Some trade or other names: JWH-307; JWH-030; JWH-031; JWH-145; JWH-146; JWH-147; JWH-150; JWH-156; JWH-242; JWH-243; JWH-244; JWH-245; JWH-246; JWH-292; JWH-293; JWH-308; JWH-309; JWH-346; JWH-348; JWH-363; JWH-364; JWH-365; JWH-367; JWH-368; JWH-369; JWH-370; JWH-371; JWH-373; JWH-392;

(f) Naphthylmethylindenes. Any compound containing a naphthylideneindene structure with substitution at the 3-position of the indene ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, cyanoalky, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, (tetrahydropyran-4-yl)methyl, benzyl, or halobenzyl group, whether or not further substituted on the indene ring to any extent and whether or not substituted on the naphthyl ring to any extent.

Some trade or other names: JWH-171; JWH-176; JWH-220;

(g) Cyclohexylphenols. Any compound containing a 2-(3-hydroxycyclohexyl)phenol structure with substitution at the 5-

position of the phenolic ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, (tetrahydropyran-4-yl)methyl, benzyl, or halobenzyl group, whether or not substituted on the cyclohexyl ring to any extent.

Some trade or other names: 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol (CP 47, 497 and homologues, which includes C8); cannabicyclohexanol; CP-55,490; CP-55,940; CP-56,667;

(h) (6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl) 6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol. Some trade or other names: HU-210;

(i) 2,3-Dihydro-5-methyl-3-(4-m orpholinylmethyl)pyrrolo[1,2,3-de]-1,4-benzoxazin-6-yl]-1-napthalenyl. Some trade or other names: WIN 55, 212-2;

(j) Substituted Acetylindoles. Any compound containing a 2-acetyl indole or 3-acetyl indole structure substituted at the acetyl by replacement of the methyl group with a tetramethylcyclopropyl, adamantyl, benzyl, cumyl, or propionaldehyde substituent whether or not further substituted on the tetramethylcyclopropyl, adamantyl, benzyl, cumyl, or propionaldehyde substituent to any extent and whether or not further substituted at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, (tetrahydropyran-4-yl)methyl, benzyl, or halobenzyl group whether or not further substituted on the indole ring to any extent.

Some trade and or names: (1-Pentylindol-3-yl)-(2,2,3,3-tetramethylcyclopropyl)methanone (UR-144); (1-(5-fluoropentyl)indol-3-yl)-(2,2,3,3-tetramethylcyclopropyl)methanone (XLR-11); (1-(2-morpholin-4-ylethyl)-1H-indol-3-yl)-(2,2,3,3-tetramethylcyclopropyl)methanone (A-796,260); 1-[(N-methylpiperidin-2-yl)methyl]-3-(adamant-1-oyl)indole (AM-1248); 1-Pentyl-3-(1-adamantoyl)indole (AB-001 and JWH-018 adamantyl analog); AM-679; (1-(4-fluorobenzyl)-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone (FUB-144);

(k) Substituted Carboxamide Indole. Any compound containing a 2-carboxamide indole or 3-carboxamide indole structure substituted at the nitrogen of the carboxamide with a tetramethylcyclopropyl, naphthyl, adamantyl, cumyl, phenyl, or propionaldehyde substituent, whether or not further substituted on the tetramethylcyclopropyl, adamantyl, cumyl, naphthyl, phenyl, or propionaldehyde substituent to any extent and whether or not further substituted at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, (tetrahydropyran-4-yl)methyl, benzyl, or halobenzyl group whether or not further substituted on the indole ring to any extent.

Some trade and other names: JWH-018 adamantyl carboxamide; STS-135; MN-18; 5-Fluoro-MN-18, 1-(5-fluoropentyl)-N-(2-phenylpropan-2-yl)-1H-pyrrolo[2,3-b]pyridine-3-carboxamide (5F-CUMYL-P7AICA) ; N-(Adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide (5F-APINACA); methyl (2R)-2-[[1-(5-fluoropentyl)indazole-3-carbonyl]amino]-3,3-dimethylbutanoate (5F-ADB); N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)indazole-3-carboxamide (AB-CHMINACA); 1-(4-cyanobutyl)-N-(2-phenylpropan-2-yl)-1H-indazole-3-carboxamide (4-CN-CUMYL-BUTINACA); N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)indazole-3-carboxamide (ADB-CHMINACA or MAB-CHMINACA); methyl (2S)-2-[[1-[4-fluorophenyl)methyl]indazole-3-carbonyl]amino]-3,3-dimethylbutanoate (MDMB-FUBINACA); methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3-methylbutanoate (MMB-CHMICA); methyl (2S)-2-[[1-[4-fluorophenyl)methyl]indazole-3-carbonyl]amino]-3-methylbutanoate (AMB-FUBINACA); Methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate (5F-AMB); methyl 2-(1-(5-fluoropentyl-1Hindole-3-carboxamido)-3,3-dimethylbutaoate (5F-MDMB-PICA); methyl (S)-3,3-dimethyl-2-[(1-(pent-4-enlindazole-3-carbonyl)amino]butanoate (MDMB-4en-PINACA); methyl 2-(1-(4-fluorobutyl)-1H-indazole-3carboxamido)-3,3-dimethylbutanoate (4F-MDMB-BUTINACA); Ethyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate (5F-EDMB-PINACA); Methyl 2-(1-(5-fluoropentyl)-1H-indole-3-carboxamido)-3,3-dimethylbutanoate S(5F-MDMB-PICA); N-(adamantan-1-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide (FUB-APINACA); 1-(5-fluoropentyl)-N-(2-phenylpropan-2-yl)-1H-indazole-3-carboxamide (5F-CUMYL-PINACA);

(l) Substituted Carboxylic Acid Indole. Any compound containing a 1H-indole-2-carboxylic acid or 1H-indole-3-carboxylic acid substituted at the hydroxyl group of the carboxylic acid with a phenyl, benzyl, naphthyl, adamantyl, cyclopropyl, quinolinyl, isquinolinyl, cumyl, or propionaldehyde substituent whether or not further substituted on the phenyl, benzyl, naphthyl, adamantyl, cyclopropyl, cumyl, quinolinyl, isquinolinyl, or propionaldehyde substituent to any extent and whether or not further substituted at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, tetrahydropyranylmethyl, benzyl, or halo benzyl group whether or not further substituted on the indole ring to any extent.

Some trade and other names: Naphthalen-1-yl 1-(5-fluoropntyl)-1H-indole-3-carboxylate (NM2201);

(48) 6,7-dihydro-5H-indeno-(5,6-d)-1,3-dioxol-6-amine) (MDAI);

(49) 2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine (2C-E);

(50) 2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (2C-D);

(51) 2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (2C-C);

(52) 2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine (2C-I);

(53) 2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-2);

(54) 2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-4);

(55) 2-(2,5-Dimethoxyphenyl)ethanamine (2C-H);

(56) 2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine (2C-N);

(57) 2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine (2C-P);

(58) Substituted phenethylamine. Any compound, unless specifically exempt, listed as a controlled substance in another schedule or an approved FDA drug, structurally derived from phenylethan-2-amine by substitution on the phenyl ring in any of the following ways~~, that is to say~~ : by substitution with a fused methylenedioxy, fused furan, or fused tetrahydrofuran ring system; by substitution with two alkoxy groups; by substitution with one alkoxy and either one fused furan, tetrahydrofuran, or tetrahydropyran ring system; by substitution with two fused ring systems from any combination of the furan, tetrahydrofuran, or tetrahydropyran ring systems; whether or not the compound is further modified in any of the following ways:

(a) By substitution on the phenyl ring by any halo, hydroxyl, alkyl, trifluoromethyl, alkoxy, or alkylthio groups;

(b) By substitution on the 2-position by any alkyl groups; or

(c) By substitution on the 2-amino nitrogen atom with acetyl, alkyl, dialkyl, benzyl, methoxybenzyl, or hydroxybenzyl groups.

Some trade and other names: 2-(2,5-dimethoxy-4-(methylthio)phenyl)ethanamine (2C-T or 4-methylthio-2,5-dimethoxyphenethylamine); 1-(2,5-dimethoxy-4-iodophenyl)-propan-2-amine (DOI or 2, 5-Dimethoxy-4-iodoamphetamine); 1-(4-Bromo-2,5-dimethoxyphenyl)-2-aminopropane (DOB or 2,5-Dimethoxy-4-bromoamphetamine); 1-(4-chloro-2,5-dimethoxy-phenyl)propan-2-amine (DOC or 2,5-Dimethoxy-4-chloroamphetamine); 2-(4-bromo-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine (2C-B-NBOMe; 25B-NBOMe or 2,5-Dimethoxy-4-bromo-N-(2-methoxybenzyl)phenethylamine); 2-4-iodo-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine (2C-I-NBOMe; 25I-NBOMe or 2,5-Dimethoxy-4-iodo-N-(2-methoxybenzyl)phenethylamine); N-(2-Methoxybenzyl)-2-(3,4,5-trimethoxypheny (Mescaline-NBOMe or 3,4,5-trimethoxy-(2-methoxybenzyl)phenethylamine); 2-(4-chloro-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine (2C-C-NBOMe; 25C-NBOMe or 2,5-Dimethoxy-4-chloro-N-(2-methoxybenzyl)phenethylamine); 2-(7-Bromo-5-methoxy-2,3-dihydro-1-benzofuran-4-yl)ethanamine (2CB-5-hemiFLY); 2-(8-bromo-2,3,6,7-tetrahydrofuro [2,3-f][1]benzofuran-4-yl)ethanamine (2C-B-FLY); 2-(10-Bromo-2,3,4,7,8,9-hexahydropyrano[2,3-g]chromen-5-yl)ethanamine (2C-B-butterFLY); -(2-Methoxybenzyl)-1-(8-bromo-2,3,6,7-tetrahydrobenzo[1,2-b:4,5-bN]difuran-4-yl)-2-aminoethane (2C-B-FLY-NBOMe); 1-(4-Bromofuro[2,3-f][1]benzofuran-8-yl)propan-2-amine (bromo-benzodifuranyl-isopropylamine or bromo-dragonFLY); -(2-Hydroxybenzyl)-4-iodo-2,5-dimethoxyphenethylamine (2C-I-NBOH or 25I-NBOH); 5-(2-Aminoprpyl)benzofuran (5-APB); 6(2-Aminopropyl)benzofuran (6-APB); 5-(2-Aminopropyl)-2,3-dihydrobenzofuran (5-APDB); 6-(2-Aminopropyl)-2,3,-dihydrobenzofuran (6-APDB); para-methoxymethamphetamine (PMMA);

(59) Substituted tryptamines. Any compound, unless specifically exempt, listed as a controlled substance in another schedule or an approved FDA drug, structurally derived from 2-(1H-indol-3-yl)ethanamine ~~(i.e, tryptamine)~~ by mono- or di-substitution of the amine nitrogen with alkyl or alkenyl groups or by inclusion of the amino nitrogen atom in a cyclic structure whether or not the compound is further substituted at the alpha-position with an alkyl group or whether or not further substituted on the indole ring to any extent with any alkyl, alkoxy, halo, hydroxyl, or acetoxy groups.

Some trade and other names: 5-methoxy-N,N-diallyltryptamine (5-MeO-DALT); 4-acetoxy-N,N-dimethyltryptamine (4-AcO-DMT or O-Acetylpsilocin); 4-hydroxy-N-methyl-N-ethyltryptamine (4-HO-MET); 4-hydroxy-N,N-diisopropyltryptamine (4-HO-DIPT); 5-methoxy-N-methyl-N-isopropyltryptamine (5-MeO-MiPT);

(60) Naphthalen-1-yl-(4-pentyloxynaphthalen-1-yl)methanone (CB-13);

(61) N-Adamantyl-1-pentyl-1H-Indazole-3-carboxamide (AKB 48);

(62) 1-(4-Fluorophenyl)piperazine (pFPP);

(63) 1-(3-Chlorophenyl)piperazine (mCPP);

(64) 1-(4-Methoxyphenyl)piperazine (pMeOPP);

(65) 1,4-Dibenzylpiperazine (DBP);

(66) Isopentedrone;

(67) Fluoromethamphetamine;

(68) Fluoroamphetamine;

(69) Fluorococaine;

(70) 1-pentyl-8-quinolinyl ester-1H-indole-3-carboxylic acid (PB-22);

(71) 1-(5-fluoropentyl)-8-quinolinyl ester-1H-indole-3-carboxylic acid (5 Fluoro-PB-22);

(72) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide (AB-PINACA);

(73) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide (5 Fluoro-AB-PINACA);

(74) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide (AB-FUBINACA);

(75) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indole-3-carboxamide (ADB-PINACA (ADBICA));

(76) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)-1H-indole-3-carboxamide (5 Fluoro-ADB-PINACA (5 Fluoro-ADBICA));

(77) N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide (ADB-FUBINACA); ~~and~~

(78) N-(1-carbamoyl-2-methyl-propyl)-2-(5-fluoropentyl)-5-(4-fluorophenyl)pyrazole-3-carboxamide (5-Fluoro-3,5-AB-PFUPPYCA); and

(79) 2-(ethylamino)-2-(3-methoxyphenyl)cyclohexan-1-one (methoxetamine).

Section 3. That § 34-20B-25 be AMENDED:

34-20B-25. The following are included in Schedule IV:

(1) Chlordiazepoxide, but not including librax (chlordiazepoxide hydrochloride and clindinium bromide) or menrium (chlordiazepoxide and water soluble esterified estrogens);

(2) Clonazepam;

(3) Clorazepate;

(4) Diazepam;

(5) Flunitrazepam;

(6) Flurazepam;

(7) Mebutamate;

(8) Oxazepam;

(9) Prazepam;

(10) Lorazepam;

(11) Triazolam;

(12) Any substance ~~which~~ that contains any quantity of a benzodiazepine, or salt of benzodiazepine, except substances ~~which~~ that are specifically listed in other schedules;

(13) Alprazolam;

(14) Midazolam;

(15) Temazepam;

(16) Cathine;

(17) Fencamfamine;

(18) Fenproporex;

(19) Mefenorex;

(20) Pyrovalerone;

(21) Propoxyphene;

(22) Pentazocine;

(23) Diethylpropion;

(24) Ethchlorvynol;

(25) Ethinamate;

(26) Fenfluramine;

(27) Mazindol;

(28) Mephobarbital;

(29) Methohexitol;

(30) Paraldehyde;

(31) Pemoline;

(32) Petrichloral;

(33) Phentermine;

(34) Barbital;

(35) Phenobarbital;

(36) Meprobamate;

(37) Zolpidem;

(38) Butorphanol;

(39) Modafinil, including its salts, isomers, and salts of isomers;

(40) Sibutramine;

(41) Zaleplon;

(42) Dichloralphenazone;

(43) Zopiclone ~~(~~, also known as eszopiclone~~)~~, including its salts, isomers, and salts of isomers;

(44) Pregabalin;

(45) Lacosamide;

(46) Fospropofol, including its salts, isomers, and salts of isomers;

(47) Clobazam;

(48) Carisoprodol, including its salts, isomers, and salts of isomers;

(49) Ezogabine,[-[2-amino-4-(4-fluorobenzylamino)-phenyl]-carbamic acid ethyl ester], including its salts, isomers, and salts of isomers;

(50) Lorcaserin, any material, compound, mixture, or preparation ~~which~~ that contains any quantity of the following substances, including its salts, isomers, and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible;

(51) Alfaxalone, 5[alpha]-pregnan-3[alpha]-ol-11,20-dione, including its salts, isomers, and salts of isomers;

(52) Tramadol, 2-[(dimethylamino)methyl]-1-(3-methoxyphenyl)cyclohexanol, its salts, optical and geometric isomers and salts of these isomers;

(53) Suvorexant, including its salts, isomers, and salts of isomers;

(54) Eluxadoline,(5-[[[(2S)-2-amino-3-[4-aminocarbonyl)-2,6-dimethylphenyl]-1-oxopropyl][(1S)-1-(4-phenyl-1H-imidazol-2-yl)ethyl]amino]methyl]-2-methoxybenzoic acid) including its optical isomers and its salts, isomers, and salts of isomers;

(55) Brivaracetam;

(56) Solriamfetol (2-amino-3-phenylpropyl carbamate; benzenepropanol, beta-amino-, carbamate (ester)), including its salts, isomers, and salts of isomers whenever the existence of the salts, isomers, and salts of isomers is possible;

(57) Brexanolone, (3[alpha]-hydroxy-5[alpha]-pregnan-20-one), including its salts, isomers, and salts of isomers whenever the existence of the salts, isomers, and salts of isomers is possible;

(58) Cenobamate ([(1R)-1-(2-chlorophenyl)-2-(tetrazol-2-yl)ethyl] carbamate; 2H-tetrazole-2-ethanol, alpha-(2-chlorophenyl)-, carbamate (ester), (alphaR)-; carbamic acid (R)-(+)-1-(2-chlorophenyl)-2-(2H-tetrazol-2-

yl)ethyl ester);

(59) Lasmiditan [2,4,6-trifluoro-N-(6-(1-methylpiperidine-4-carbonyl)pyridine-2-yl)-benzamide];

(60) Lemborexant, including its salts, isomers, and salts of isomers;

(61) Remimazolam~~, and~~;

(62) Serdexmethylphenidate, including its salts, isomers, and salts of isomers;

(63) Daridorexant, including its salts, isomers, and salts of isomers; and

(64) Ganaxolone, including its salts.

Section 4. Whereas, this Act is necessary for the immediate preservation of the public peace, health, or safety, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

Signed February 9, 2023

Chapter 120

(House Bill 1053)

An Act to prohibit the issuance of a written certification to a pregnant woman or breastfeeding mother for purposes of medical cannabis use.

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

Section 1. That § 34-20G-1 be AMENDED:

34-20G-1. Terms used in this chapter mean:

(1) "Allowable amount of cannabis,":

(a) Three ounces of cannabis or less;

(b) The quantity of cannabis products as established by rules promulgated by the department under § 34-20G-72;

(c) If the cardholder has a registry identification card allowing cultivation, two flowering cannabis plants and two cannabis plants that are not flowering; and

(d) If the cardholder has a registry identification card allowing cultivation, the amount of cannabis and cannabis products that were produced from the cardholder's allowable plants, if the cannabis and cannabis products are possessed at the same property where the plants were cultivated;

(2) "Bona fide practitioner-patient relationship," a treatment or consulting relationship between a practitioner and patient, during which:

(a) The practitioner completes, at the initial visit, an assessment of the patient's medical history and current medical condition, including an appropriate in-person physical examination;

(b) The patient is under the practitioner's care for the debilitating medical condition that qualifies the patient for the medical use of

cannabis or has been referred by the practitioner caring for the patient's debilitating medical condition that qualifies the patient for the medical use of cannabis to another practitioner;

(c) The patient has a reasonable expectation that the practitioner providing the written certification will continue to provide follow-up care to the patient to monitor the medical use of cannabis; and

(d) The relationship is not for the sole purpose of providing a written certification for the medical use of cannabis unless the patient has been referred by a practitioner providing care for the debilitating medical condition that qualifies the patient for the medical use of cannabis;

(3) "Cannabis products," any concentrated cannabis, cannabis extracts, and products that are infused with cannabis or an extract thereof, and are intended for use or consumption by humans. The term includes edible cannabis products, beverages, topical products, ointments, oils, and tinctures;

(4) "Cannabis product manufacturing facility," an entity registered with the department pursuant to this chapter that acquires, possesses, manufactures, delivers, transfers, transports, supplies, or sells cannabis products to a medical cannabis dispensary;

(5) "Cannabis testing facility" or "testing facility," an independent entity registered with the department pursuant to this chapter to analyze the safety and potency of cannabis;

(6) "Cardholder," a qualifying patient or a designated caregiver who has been issued and possesses a valid registry identification card;

(7) "Cultivation facility," an entity registered with the department pursuant to this chapter that acquires, possesses, cultivates, delivers, transfers, transports, supplies, or sells cannabis and related supplies to a medical cannabis establishment;

(8) "Debilitating medical condition,":

(a) A chronic or debilitating disease or medical condition or its treatment that produces one or more of the following: cachexia or wasting syndrome; severe, debilitating pain; severe nausea, except nausea associated with pregnancy; seizures; or severe and persistent muscle spasms, including those characteristic of multiple sclerosis; or

(b) Any other medical condition or its treatment added by the department, as provided for in § 34-20G-26;

(9) "Department," the Department of Health;

(10) "Designated caregiver," an individual who:

(a) Is at least twenty-one years of age;

(b) Has agreed to assist with a qualifying patient's medical use of cannabis;

(c) Has not been convicted of a disqualifying felony offense; and

(d) Assists no more than five qualifying patients with the medical use of cannabis, unless the designated caregiver's qualifying patients each reside in or are admitted to a health care facility, as defined

in § 34-12-1.1, an accredited prevention or treatment facility, as defined in § 34-20A-2, a mental health center, as defined in § 27A-1-1, a child welfare agency, as defined in § 26-6-1, or a community support provider or community services provider, as defined in § 27B-1-17, where the designated caregiver is employed;

(11) "Disqualifying felony offense," a violent crime that was classified as a felony in the jurisdiction where the person was convicted;

(12) "Edible cannabis products," any product that:

(a) Contains or is infused with cannabis or an extract thereof;

(b) Is intended for human consumption by oral ingestion; and

(c) Is presented in the form of foodstuffs, beverages, extracts, oils, tinctures, or other similar products;

(13) "Enclosed, locked facility," any closet, room, greenhouse, building, or other enclosed area that is equipped with locks or other security devices that permit access only by a cardholder or a person allowed to cultivate the plants. Two or more cardholders who reside in the same dwelling may share one enclosed, locked facility for cultivation;

(14) "Flowering cannabis plant," the reproductive state of the cannabis plant in which the plant shows physical signs of flower budding out of the nodes of the stem;

(15) "Medical cannabis" or "cannabis," marijuana as defined in § 22-42-1;

(16) "Medical cannabis dispensary" or "dispensary," an entity registered with the department pursuant to this chapter that acquires, possesses, stores, delivers, transfers, transports, sells, supplies, or dispenses cannabis, cannabis products, paraphernalia, or related supplies and educational materials to cardholders;

(17) "Medical cannabis establishment," a cultivation facility, a cannabis testing facility, a cannabis product manufacturing facility, or a dispensary;

(18) "Medical cannabis establishment agent," an owner, officer, board member, employee, or volunteer at a medical cannabis establishment;

(19) "Medical use," includes the acquisition, administration, cultivation, manufacture, delivery, harvest, possession, preparation, transfer, transportation, or use of cannabis or paraphernalia relating to the administration of cannabis to treat or alleviate a registered qualifying patient's debilitating medical condition or symptom associated with the patient's debilitating medical condition. The term does not include:

(a) The cultivation of cannabis by a nonresident cardholder;

(b) The cultivation of cannabis by a cardholder who is not designated as being allowed to cultivate on the cardholder's registry identification card; or

(c) The extraction of resin from cannabis by solvent extraction unless the extraction is done by a cannabis product manufacturing facility;

(20) "Nonresident cardholder," a person who:

(a) Has been diagnosed with a debilitating medical condition, or is the parent, guardian, conservator, or other person with authority to

consent to the medical treatment of a person who has been diagnosed with a debilitating medical condition;

(b) Is not a resident of this state or who has been a resident of this state for fewer than forty-five days;

(c) Was issued a currently valid registry identification card or its equivalent by another state, district, territory, commonwealth, insular possession of the United States, or country recognized by the United States that allows the person to use cannabis for medical purposes in the jurisdiction of issuance; and

(d) Has submitted any documentation required by the department, and has received confirmation of registration;

(21) "Practitioner," a physician, physician assistant, or advanced practice registered nurse, who is licensed with authority to prescribe drugs to humans. In relation to a nonresident cardholder, the term means a person who is licensed with authority to prescribe drugs to humans in the state of the patient's residence;

(22) "Qualifying patient," a person who has been diagnosed by a practitioner as having a debilitating medical condition;

(23) "Registry identification card," a document issued by the department that identifies a person as a registered qualifying patient or registered designated caregiver, or documentation that is deemed a registry identification card pursuant to §§ 34-20G-29 to 34-20G-42, inclusive;

(24) "Safety-sensitive job," any position with tasks or duties that an employer reasonably believes could:

(a) Cause the illness, injury, or death of an individual; or

(b) Result in serious property damage;

(25) "Under the influence of cannabis," any abnormal mental or physical condition that tends to deprive a person of clearness of intellect and control that the person would otherwise possess, as the result of consuming any degree of cannabis or cannabis products; and

(26) "Written certification," a document dated and signed by a practitioner:

(a) Stating that the patient has a qualifying debilitating medical condition or symptom associated with the debilitating medical condition;

(b) Affirming that the document is made in the course of a bona fide practitioner-patient relationship;

(c) Specifying the qualifying patient's debilitating medical condition; and

(d) Specifying the expiration date of the qualifying patient's written certification, pursuant to § 34-20G-43.

Section 2. That chapter 34-20G be amended with a NEW SECTION:

Nothing in this chapter authorizes a practitioner to provide a written certification to a patient who is pregnant or breastfeeding.

Signed March 23, 2023

Chapter 121

(House Bill 1150)

An Act to provide a medical cannabis patient a registry identification card fee waiver in certain circumstances.

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

Section 1. That § 34-20G-1 be AMENDED:

34-20G-1. Terms used in this chapter mean:

(1) "Allowable amount of cannabis,":

(a) Three ounces of cannabis or less;

(b) The quantity of cannabis products as established by rules promulgated by the department under § 34-20G-72;

(c) If the cardholder has a registry identification card allowing cultivation, two flowering cannabis plants and two cannabis plants that are not flowering; and

(d) If the cardholder has a registry identification card allowing cultivation, the amount of cannabis and cannabis products that were produced from the cardholder's allowable plants, if the cannabis and cannabis products are possessed at the same property where the plants were cultivated;

(2) "Bona fide practitioner-patient relationship," a treatment or consulting relationship between a practitioner and patient, during which:

(a) The practitioner completes, at the initial visit, an assessment of the patient's medical history and current medical condition, including an appropriate in-person physical examination;

(b) The patient is under the practitioner's care for the debilitating medical condition that qualifies the patient for the medical use of cannabis or has been referred by the practitioner caring for the patient's debilitating medical condition that qualifies the patient for the medical use of cannabis to another practitioner;

(c) The patient has a reasonable expectation that the practitioner providing the written certification will continue to provide follow-up care to the patient to monitor the medical use of cannabis; and

(d) The relationship is not for the sole purpose of providing a written certification for the medical use of cannabis unless the patient has been referred by a practitioner providing care for the debilitating medical condition that qualifies the patient for the medical use of cannabis;

(3) "Cannabis products," any concentrated cannabis, cannabis extracts, and products that are infused with cannabis or an extract thereof, and are intended for use or consumption by humans. The term includes edible cannabis products, beverages, topical products, ointments, oils, and tinctures;

(4) "Cannabis product manufacturing facility," an entity registered with the

department pursuant to this chapter that acquires, possesses, manufactures, delivers, transfers, transports, supplies, or sells cannabis products to a medical cannabis dispensary;

(5) "Cannabis testing facility" or "testing facility," an independent entity registered with the department pursuant to this chapter to analyze the safety and potency of cannabis;

(6) "Cardholder," a qualifying patient or a designated caregiver who has been issued and possesses a valid registry identification card;

(7) "Cultivation facility," an entity registered with the department pursuant to this chapter that acquires, possesses, cultivates, delivers, transfers, transports, supplies, or sells cannabis and related supplies to a medical cannabis establishment;

(8) "Debilitating medical condition,":

(a) A chronic or debilitating disease or medical condition or its treatment that produces one or more of the following: cachexia or wasting syndrome; severe, debilitating pain; severe nausea; seizures; or severe and persistent muscle spasms, including those characteristic of multiple sclerosis; or

(b) Any other medical condition or its treatment added by the department, as provided for in § 34-20G-26;

(9) "Department," the Department of Health;

(10) "Designated caregiver," an individual who:

(a) Is at least twenty-one years of age;

(b) Has agreed to assist with a qualifying patient's medical use of cannabis;

(c) Has not been convicted of a disqualifying felony offense; and

(d) Assists no more than five qualifying patients with the medical use of cannabis, unless the designated caregiver's qualifying patients each reside in or are admitted to a health care facility, as defined in § 34-12-1.1, an accredited prevention or treatment facility, as defined in § 34-20A-2, a mental health center, as defined in § 27A-1-1, a child welfare agency, as defined in § 26-6-1, or a community support provider or community services provider, as defined in § 27B-1-17, where the designated caregiver is employed;

(11) "Disqualifying felony offense," a violent crime that was classified as a felony in the jurisdiction where the person was convicted;

(12) "Edible cannabis products," any product that:

(a) Contains or is infused with cannabis or an extract thereof;

(b) Is intended for human consumption by oral ingestion; and

(c) Is presented in the form of foodstuffs, beverages, extracts, oils, tinctures, or other similar products;

(13) "Enclosed, locked facility," any closet, room, greenhouse, building, or other enclosed area that is equipped with locks or other security devices that permit access only by a cardholder or a person allowed to cultivate the plants. Two or more cardholders who reside in the same dwelling may share one enclosed, locked facility for cultivation;

(14) "Flowering cannabis plant," the reproductive state of the cannabis plant in which the plant shows physical signs of flower budding out of the nodes of the stem;

(15) "Medical cannabis" or "cannabis," marijuana as defined in § 22-42-1;

(16) "Medical cannabis dispensary" or "dispensary," an entity registered with the department pursuant to this chapter that acquires, possesses, stores, delivers, transfers, transports, sells, supplies, or dispenses cannabis, cannabis products, paraphernalia, or related supplies and educational materials to cardholders;

(17) "Medical cannabis establishment," a cultivation facility, a cannabis testing facility, a cannabis product manufacturing facility, or a dispensary;

(18) "Medical cannabis establishment agent," an owner, officer, board member, employee, or volunteer at a medical cannabis establishment;

(19) "Medical use," includes the acquisition, administration, cultivation, manufacture, delivery, harvest, possession, preparation, transfer, transportation, or use of cannabis or paraphernalia relating to the administration of cannabis to treat or alleviate a registered qualifying patient's debilitating medical condition or symptom associated with the patient's debilitating medical condition. The term does not include:

(a) The cultivation of cannabis by a nonresident cardholder;

(b) The cultivation of cannabis by a cardholder who is not designated as being allowed to cultivate on the cardholder's registry identification card; or

(c) The extraction of resin from cannabis by solvent extraction unless the extraction is done by a cannabis product manufacturing facility;

(20) "Nonresident cardholder," a person who:

(a) Has been diagnosed with a debilitating medical condition, or is the parent, guardian, conservator, or other person with authority to consent to the medical treatment of a person who has been diagnosed with a debilitating medical condition;

(b) Is not a resident of this state or who has been a resident of this state for fewer than forty-five days;

(c) Was issued a currently valid registry identification card or its equivalent by another state, district, territory, commonwealth, insular possession of the United States, or country recognized by the United States that allows the person to use cannabis for medical purposes in the jurisdiction of issuance; and

(d) Has submitted any documentation required by the department, and has received confirmation of registration;

(21) "Practitioner," a physician, physician assistant, or advanced practice registered nurse, who is licensed with authority to prescribe drugs to humans. In relation to a nonresident cardholder, the term means a person who is licensed with authority to prescribe drugs to humans in the state of the patient's residence;

(22) "Qualifying patient," a person who has been diagnosed by a practitioner as having a debilitating medical condition;

(23) "Registry identification card," a document issued by the department that

identifies a person as a registered qualifying patient or registered designated caregiver, or documentation that is deemed a registry identification card pursuant to §§ 34-20G-29 to 34-20G-42, inclusive;

(24) "Safety-sensitive job," any position with tasks or duties that an employer reasonably believes could:

(a) Cause the illness, injury, or death of an individual; or

(b) Result in serious property damage;

(25) "Under the influence of cannabis," any abnormal mental or physical condition that tends to deprive a person of clearness of intellect and control that the person would otherwise possess, as the result of consuming any degree of cannabis or cannabis products; and

(26) "Written certification," a document dated and signed by a practitioner:

(a) Stating that the patient has a qualifying debilitating medical condition or symptom associated with the debilitating medical condition;

(b) Affirming that the document is made in the course of a bona fide practitioner-patient relationship;

(c) Specifying the qualifying patient's debilitating medical condition; ~~and~~

(d) Specifying the expiration date of the qualifying patient's written certification, pursuant to § 34-20G-43; and

(e) Specifying whether the practitioner has previously issued the patient a written certification and the date of that written certification.

Section 2. That § 34-20G-29 be AMENDED:

34-20G-29. ~~No later than November 18, 2021, the~~ The department shall issue a registry identification ~~cards~~ card to a qualifying ~~patients~~ patient who ~~submit~~ submits the following, in accordance with rules promulgated by the department:

(1) A written certification issued by a practitioner within ninety days immediately preceding the date of an application;

(2) The application or renewal fee;

(3) The name, address, and date of birth of the qualifying patient, except that if the applicant is homeless, no address is required;

(4) The name, address, and telephone number of the qualifying patient's practitioner;

(5) The name, address, and date of birth of the designated caregiver, or designated caregivers, chosen by the qualifying patient;

(6) If more than one designated caregiver is designated at any given time, documentation demonstrating that a greater number of designated caregivers are needed due to the patient's age or medical condition;

(7) The name of no more than two dispensaries that the qualifying patient designates, if any; and

(8) If the qualifying patient designates a designated caregiver, a designation as to whether the qualifying patient or designated caregiver will be allowed under state law to possess and cultivate cannabis plants for the qualifying patient's medical use.

When a practitioner conducts a follow-up assessment with a patient, within sixty days of issuing the patient a written certification, and the purpose of the follow-up assessment is to assess the patient's response to the use of medical cannabis and to determine whether to issue the patient a second written certification, the fee required under subdivision (2) is waived, if the patient reapplies for the second registry identification card. A patient may only receive one fee waiver under this section per calendar year.

Signed March 6, 2023

Chapter 122

(Senate Bill 1)

An Act to modify debilitating medical conditions for medical cannabis use.

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

Section 1. That § 34-20G-1 be AMENDED:

34-20G-1. Terms used in this chapter mean:

(1) "Allowable amount of cannabis,":

(a) Three ounces of cannabis or less;

(b) The quantity of cannabis products as established by rules promulgated by the department under § 34-20G-72;

(c) If the cardholder has a registry identification card allowing cultivation, two flowering cannabis plants and two cannabis plants that are not flowering; and

(d) If the cardholder has a registry identification card allowing cultivation, the amount of cannabis and cannabis products that were produced from the cardholder's allowable plants, if the cannabis and cannabis products are possessed at the same property where the plants were cultivated;

(2) "Bona fide practitioner-patient relationship," a treatment or consulting relationship between a practitioner and patient, during which:

(a) The practitioner completes, at the initial visit, an assessment of the patient's medical history and current medical condition, including an appropriate in-person physical examination;

(b) The patient is under the practitioner's care for the debilitating medical condition that qualifies the patient for the medical use of cannabis or has been referred by the practitioner caring for the patient's debilitating medical condition that qualifies the patient for the medical use of cannabis to another practitioner;

(c) The patient has a reasonable expectation that the practitioner providing the written certification will continue to provide follow-

up care to the patient to monitor the medical use of cannabis; and

(d) The relationship is not for the sole purpose of providing a written certification for the medical use of cannabis unless the patient has been referred by a practitioner providing care for the debilitating medical condition that qualifies the patient for the medical use of cannabis;

(3) "Cannabis products," any concentrated cannabis, cannabis extracts, and products that are infused with cannabis or an extract thereof, and are intended for use or consumption by humans. The term includes edible cannabis products, beverages, topical products, ointments, oils, and tinctures;

(4) "Cannabis product manufacturing facility," an entity registered with the department pursuant to this chapter that acquires, possesses, manufactures, delivers, transfers, transports, supplies, or sells cannabis products to a medical cannabis dispensary;

(5) "Cannabis testing facility" or "testing facility," an independent entity registered with the department pursuant to this chapter to analyze the safety and potency of cannabis;

(6) "Cardholder," a qualifying patient or a designated caregiver who has been issued and possesses a valid registry identification card;

(7) "Cultivation facility," an entity registered with the department pursuant to this chapter that acquires, possesses, cultivates, delivers, transfers, transports, supplies, or sells cannabis and related supplies to a medical cannabis establishment;

(8) "Debilitating medical condition,":

(a) A chronic or debilitating disease or medical condition or its treatment that produces one or more of the following: cachexia or wasting syndrome; severe, debilitating pain; severe nausea; seizures; or severe and persistent muscle spasms~~, including those characteristic of multiple sclerosis~~; ~~or~~

(b) ~~Any other medical condition or its treatment added by the department, as provided for in § 34-20G-26~~Acquired immune deficiency syndrome or positive status for human immunodeficiency virus;

(c) Amyotrophic lateral sclerosis;

(d) Multiple sclerosis;

(e) Cancer or its treatment, if associated with severe or chronic pain, nausea or severe vomiting, or cachexia or severe wasting;

(f) Crohn’s disease;

(g) Epilepsy and seizures; or

(h) Post-traumatic stress disorder;

(9) "Department," the Department of Health;

(10) "Designated caregiver," an individual who:

(a) Is at least twenty-one years of age;

(b) Has agreed to assist with a qualifying patient's medical use of cannabis;

(c) Has not been convicted of a disqualifying felony offense; and

(d) Assists no more than five qualifying patients with the medical use of cannabis, unless the designated caregiver's qualifying patients each reside in or are admitted to a health care facility, as defined in § 34-12-1.1, an accredited prevention or treatment facility, as defined in § 34-20A-2, a mental health center, as defined in § 27A-1-1, a child welfare agency, as defined in § 26-6-1, or a community support provider or community services provider, as defined in § 27B-1-17, where the designated caregiver is employed;

(11) "Disqualifying felony offense," a violent crime that was classified as a felony in the jurisdiction where the person was convicted;

(12) "Edible cannabis products," any product that:

(a) Contains or is infused with cannabis or an extract thereof;

(b) Is intended for human consumption by oral ingestion; and

(c) Is presented in the form of foodstuffs, beverages, extracts, oils, tinctures, or other similar products;

(13) "Enclosed, locked facility," any closet, room, greenhouse, building, or other enclosed area that is equipped with locks or other security devices that permit access only by a cardholder or a person allowed to cultivate the plants. Two or more cardholders who reside in the same dwelling may share one enclosed, locked facility for cultivation;

(14) "Flowering cannabis plant," the reproductive state of the cannabis plant in which the plant shows physical signs of flower budding out of the nodes of the stem;

(15) "Medical cannabis" or "cannabis," marijuana as defined in § 22-42-1;

(16) "Medical cannabis dispensary" or "dispensary," an entity registered with the department pursuant to this chapter that acquires, possesses, stores, delivers, transfers, transports, sells, supplies, or dispenses cannabis, cannabis products, paraphernalia, or related supplies and educational materials to cardholders;

(17) "Medical cannabis establishment," a cultivation facility, a cannabis testing facility, a cannabis product manufacturing facility, or a dispensary;

(18) "Medical cannabis establishment agent," an owner, officer, board member, employee, or volunteer at a medical cannabis establishment;

(19) "Medical use," includes the acquisition, administration, cultivation, manufacture, delivery, harvest, possession, preparation, transfer, transportation, or use of cannabis or paraphernalia relating to the administration of cannabis to treat or alleviate a registered qualifying patient's debilitating medical condition or symptom associated with the patient's debilitating medical condition. The term does not include:

(a) The cultivation of cannabis by a nonresident cardholder;

(b) The cultivation of cannabis by a cardholder who is not designated as being allowed to cultivate on the cardholder's registry identification card; or

(c) The extraction of resin from cannabis by solvent extraction unless the extraction is done by a cannabis product manufacturing facility;

(20) "Nonresident cardholder," a person who:

(a) Has been diagnosed with a debilitating medical condition, or is the parent, guardian, conservator, or other person with authority to consent to the medical treatment of a person who has been diagnosed with a debilitating medical condition;

(b) Is not a resident of this state or who has been a resident of this state for fewer than forty-five days;

(c) Was issued a currently valid registry identification card or its equivalent by another state, district, territory, commonwealth, insular possession of the United States, or country recognized by the United States that allows the person to use cannabis for medical purposes in the jurisdiction of issuance; and

(d) Has submitted any documentation required by the department, and has received confirmation of registration;

(21) "Practitioner," a physician, physician assistant, or advanced practice registered nurse, who is licensed with authority to prescribe drugs to humans. In relation to a nonresident cardholder, the term means a person who is licensed with authority to prescribe drugs to humans in the state of the patient's residence;

(22) "Qualifying patient," a person who has been diagnosed by a practitioner as having a debilitating medical condition;

(23) "Registry identification card," a document issued by the department that identifies a person as a registered qualifying patient or registered designated caregiver, or documentation that is deemed a registry identification card pursuant to §§ 34-20G-29 to 34-20G-42, inclusive;

(24) "Safety-sensitive job," any position with tasks or duties that an employer reasonably believes could:

(a) Cause the illness, injury, or death of an individual; or

(b) Result in serious property damage;

(25) "Under the influence of cannabis," any abnormal mental or physical condition that tends to deprive a person of clearness of intellect and control that the person would otherwise possess, as the result of consuming any degree of cannabis or cannabis products; and

(26) "Written certification," a document dated and signed by a practitioner:

(a) Stating that the patient has a qualifying debilitating medical condition or symptom associated with the debilitating medical condition;

(b) Affirming that the document is made in the course of a bona fide practitioner-patient relationship;

(c) Specifying the qualifying patient's debilitating medical condition; and

(d) Specifying the expiration date of the qualifying patient's written certification, pursuant to § 34-20G-43.

Section 2. That § 34-20G-26 be REPEALED:

~~Any resident of this state may petition the department to add a serious medical condition or treatment to the list of debilitating medical conditions as defined by this chapter. The department shall consider a petition in the manner required by rules promulgated by the department pursuant to this chapter, including public notice and hearing. The department shall approve or deny a petition within one hundred eighty days of submission. The approval or denial of any petition is a final decision of the department, subject to judicial review.~~

Section 3. That § 34-20G-72 be AMENDED:

34-20G-72. The department shall promulgate rules pursuant to chapter 1-26:

(1) ~~Governing the manner in which the department shall consider petitions from the public to add a debilitating medical condition or treatment to the list of debilitating medical conditions as defined by this chapter, including public notice of and an opportunity to comment in public hearings on the petitions;~~

~~(2)~~ Establishing the form and content of registration and renewal applications submitted under this chapter;

~~(3)~~(2) Establishing a system to numerically score competing medical cannabis establishment applicants, in cases where more applicants apply than are allowed by the local government, that includes analysis of:

(a) The preference of the local government;

(b) In the case of dispensaries, the suitability of the proposed location and its accessibility for patients;

(c) The character, veracity, background, qualifications, and relevant experience of principal officers and board members; and

(d) The business plan proposed by the applicant, that in the case of a cultivation facility or dispensary shall include the ability to maintain an adequate supply of cannabis, plans to ensure safety and security of patrons and the community, procedures to be used to prevent diversion, and any plan for making cannabis available to low-income registered qualifying patients;

~~(4)~~(3) Governing the manner in which the department shall consider applications for and renewals of registry identification cards, that may include creating a standardized written certification form;

~~(5)~~(4) Governing medical cannabis establishments to ensure the health and safety of qualifying patients and prevent diversion and theft without imposing an undue burden or compromising the confidentiality of a cardholder, including:

(a) Oversight requirements;

(b) Record-keeping requirements;

(c) Security requirements, including lighting, physical security, and alarm requirements;

(d) Health and safety regulations, including restrictions on the use of pesticides that are injurious to human health;

(e) Standards for the manufacture of cannabis products and both the indoor and outdoor cultivation of cannabis by a cultivation facility;

(f) Requirements for the transportation and storage of cannabis by a medical cannabis establishment;

(g) Employment and training requirements, including requiring that each medical cannabis establishment create an identification badge for each agent;

(h) Standards for the safe manufacture of cannabis products, including extracts and concentrates;

(i) Restrictions on the advertising, signage, and display of medical cannabis, provided that the restrictions may not prevent appropriate signs on the property of a dispensary, listings in business directories including phone books, listings in marijuana-related or medical publications, or the sponsorship of health or not-for-profit charity or advocacy events;

(j) Requirements and procedures for the safe and accurate packaging, labeling, distribution, and tracking of medical cannabis;

(k) Certification standards for testing facilities, including requirements for equipment and qualifications for personnel; and

(l) Requirements for samples of cannabis and cannabis products submitted to testing facilities, including batch sizes to not exceed fifty pounds of cannabis intended for retail sale, batch sizes for homogenous cannabis products intended for retail sale, and procedures to ensure representative sampling;

~~(6)~~(5) Establishing procedures for suspending or terminating the registration certificates or registry identification cards of cardholders and medical cannabis establishments that commit multiple or serious violations of this chapter;

~~(7)~~(6) Establishing labeling requirements for cannabis and cannabis products, including requiring cannabis product labels to include the following:

(a) The length of time it typically takes for a product to take effect;

(b) Disclosing ingredients and possible allergens;

(c) A nutritional fact panel; and

(d) Requiring that edible cannabis products be clearly identifiable, when practicable, with a standard symbol indicating that it contains cannabis;

~~(8)~~(7) Establishing procedures for the registration of nonresident cardholders and the cardholder's designation of no more than two dispensaries, which shall require the submission of:

(a) A practitioner's statement confirming that the patient has a debilitating medical condition; and

(b) Documentation demonstrating that the nonresident cardholder is allowed to possess cannabis or cannabis preparations in the jurisdiction where the nonresident cardholder resides;

~~(9)~~(8) Establishing the amount of cannabis products, including the amount of concentrated cannabis, each cardholder and nonresident cardholder may possess; and

~~(10)~~(9) Establishing reasonable application and renewal fees for registry identification cards and registration certificates, according to the following:

(a) Application fees for medical cannabis establishments may not exceed five thousand dollars, with this upper limit adjusted annually for inflation;

(b) The total fees collected shall generate revenues sufficient to offset all expenses of implementing and administering this chapter;

(c) A sliding scale of patient application and renewal fees based upon a qualifying patient's household income;

(d) The fees charged to qualifying patients, nonresident cardholders, and caregivers shall be no greater than the costs of processing the application and issuing a registry identification card or registration; and

(e) The department may accept donations from private sources to reduce application and renewal fees.

A violation of a required or prohibited action under any rule authorized by this section is a Class 2 misdemeanor.

Signed March 23, 2023

Chapter 123

(House Bill 1154)

An Act to modify acceptable conduct for practitioners related to medical cannabis.

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

Section 1. That § 34-20G-78 be AMENDED:

34-20G-78. A practitioner ~~who knowingly~~ is guilty of a Class 2 misdemeanor if the practitioner:

(1) Knowingly refers ~~patients~~ a patient to a medical cannabis establishment or to a designated caregiver in exchange for financial consideration~~, who advertises~~;

(2) Advertises in a medical cannabis establishment~~, or who issues~~;

(3) Issues written certifications while holding a financial interest in a medical cannabis establishment ~~is guilty of a Class 2 misdemeanor~~;

(4) Offers a discount, deal, or other financial incentive for making an appointment with the practitioner for the purpose of receiving a written certification;

(5) Conducts the medical assessment required for a bona fide practitioner-patient relationship in a space licensed for the sale of alcoholic beverages; or

(6) Charges a patient based on the term of a written certification issued to the patient.

Section 2. That chapter 34-20G be amended with a NEW SECTION:

An entity is guilty of a Class 2 misdemeanor if the entity:

(1) Offers a discount, deal, or other financial incentive for making an appointment with a practitioner for the purpose of receiving a written certification; or

(2) Charges a practitioner's patient based on the duration of a written certification issued to the patient.

Signed March 23, 2023

Chapter 124

(Senate Bill 198)

An Act to allow medical cannabis establishments to maintain certain cardholder data and to declare an emergency.

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

Section 1. That § 34-20G-89 be AMENDED:

34-20G-89. ~~Any~~ Except as otherwise provided in this section, information kept or maintained by a medical cannabis establishment may ~~only~~ identify a cardholder only by registry identification number and may not contain names or other ~~personal identifying~~ personally identifiable information.

A cardholder may, in writing, authorize an establishment to maintain the cardholder's name and other personally identifiable information, for the limited purpose of receiving direct communication regarding the cardholder's:

(1) Individual medical needs; or

(2) Use of a specific product.

Section 2. Whereas, this Act is necessary for the immediate preservation of the public peace, health, or safety, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

Signed March 8, 2023

Chapter 125

(Senate Bill 134)

An Act to revise membership of the Medical Marijuana Oversight Committee.

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

Section 1. That § 34-20G-92 be AMENDED:

34-20G-92. The Executive Board of the Legislative Research Council shall appoint an oversight committee ~~comprised of: one member of the House of~~

~~Representatives, one member of the Senate, one Division of Criminal Investigation agent, one staff member from the Office of the Attorney General, two representatives of law enforcement, one representative from the department, one practitioner with experience in medical cannabis issues, one nurse, one board member or principal officer of a cannabis testing facility, one person with experience in policy development or implementation in the field of medical cannabis, and three qualifying patients~~ consisting of:

(1) Two members of the Senate;

(2) Two members of the House of Representatives;

(3) One physician licensed in accordance with chapter 36-4;

(4) One physician assistant licensed in accordance with chapter 36-4A;

(5) One certified nurse practitioner licensed in accordance with chapter 36-9A;

(6) One chief of police for a municipality having a population in excess of fifty-thousand, or a representative of the police department designated by the chief;

(7) One sheriff of a county or a representative of the sheriff's office designated by the sheriff;

(8) One professional counselor licensed in accordance with chapter 36-32 or one addiction counselor licensed in accordance with chapter 36-34; and

(9) One qualifying patient.

Each appointee shall serve for a term of two years and may be reappointed.

Section 2. That chapter 34-20G be amended with a NEW SECTION:

Beginning in 2023, and every two years thereafter, the oversight committee shall select from among itself one legislator to serve as the chair and one legislator, from the opposite chamber, to serve as the vice chair.

Beginning in 2025, the legislators selected to serve as the chair and vice chair may not be from the same chamber as their immediate predecessors.

Section 3. That § 34-20G-93 be AMENDED:

34-20G-93. The oversight committee shall meet at least two times per year for the purpose of evaluating and making recommendations to the Legislature and the department regarding:

(1) The ability of qualifying patients in all areas of the state to obtain timely access to high-quality medical cannabis;

(2) The effectiveness of the dispensaries and cultivation facilities, individually and together, in serving the needs of qualifying patients, including the provision of educational and support services by dispensaries, the reasonableness of their prices, whether they are generating any complaints or security problems, and the sufficiency of the number operating to serve the state's registered qualifying patients;

(3) The effectiveness of the cannabis testing facilities, including whether a sufficient number are operating;

(4) The sufficiency of the regulatory and security safeguards contained in this chapter and adopted by the department to ensure that access to and use

of cannabis cultivated is provided only to cardholders;

(5) Any recommended additions or revisions to the department regulations or this chapter, including relating to security, safe handling, labeling, and nomenclature; and

(6) Any research studies regarding health effects of medical cannabis for patients.

The oversight committee shall ensure that it seeks relevant input from qualifying patients; designated caregivers; pharmacists; school boards and administrators; parents; municipal representatives; state agencies, including the Department of Health, the South Dakota Division of Criminal Investigation, and the Department of Public Safety; and medical cannabis establishments.

Signed March 14, 2023

Chapter 126

(House Bill 1132)

An Act to revise provisions regarding the duties of the medical marijuana oversight committee.

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

Section 1. That § 34-20G-93 be AMENDED:

34-20G-93. The oversight committee shall meet at least two times per year for the purpose of evaluating and making recommendations to the Legislature and the department regarding:

(1) The ability of qualifying patients in all areas of the state to obtain timely access to high-quality medical cannabis;

(2) The effectiveness of the dispensaries and cultivation facilities, individually and together, in serving the needs of qualifying patients, including the provision of educational and support services by dispensaries, the reasonableness of their prices, whether they are generating any complaints or security problems, and the sufficiency of the number operating to serve the state's registered qualifying patients;

(3) The effectiveness of the cannabis testing facilities, including whether a sufficient number are operating;

(4) The sufficiency of the regulatory and security safeguards contained in this chapter and adopted by the department to ensure that access to and use of cannabis cultivated is provided only to cardholders;

(5) Any recommended additions or revisions to the department regulations or this chapter, including recommendations relating to security, safe handling, labeling, and nomenclature; ~~and~~

(6) Any research studies regarding health effects of medical cannabis for patients; and

(7) Any medical and clinical aspects of the medical cannabis program.

Signed March 6, 2023

Chapter 127

(House Bill 1080)

An Act to prohibit certain medical and surgical interventions on minor patients.

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

Section 1. That chapter 34-24 be amended with a NEW SECTION:

Terms used in sections 2 to 6, inclusive, of this Act, mean:

(1) "Minor," any person under the age of eighteen; and

(2) "Sex," means the biological indication of male and female, as evidenced by sex chromosomes, naturally occurring sex hormones, gonads, and nonambiguous internal and external genitalia present at birth.

Section 2. That chapter 34-24 be amended with a NEW SECTION:

Except as provided in section 3 of this Act, a healthcare professional may not, for the purpose of attempting to alter the appearance of, or to validate a minor's perception of, the minor's sex, if that appearance or perception is inconsistent with the minor's sex, knowingly:

(1) Prescribe or administer any drug to delay or stop normal puberty;

(2) Prescribe or administer testosterone, estrogen, or progesterone, in amounts greater than would normally be produced endogenously in a healthy individual of the same age and sex;

(3) Perform any sterilizing surgery, including castration, hysterectomy, oophorectomy, orchiectomy, penectomy, and vasectomy;

(4) Perform any surgery that artificially constructs tissue having the appearance of genitalia differing from the minor's sex, including metoidioplasty, phalloplasty, and vaginoplasty; or

(5) Remove any healthy or non-diseased body part or tissue.

Section 3. That chapter 34-24 be amended with a NEW SECTION:

The prohibitions of section 2 of this Act do not limit or restrict the provision of services to:

(1) A minor born with a medically verifiable disorder of sex development, including external biological sex characteristics that are irresolvably ambiguous;

(2) A minor diagnosed with a disorder of sexual development, if a healthcare provider has determined, through genetic or biochemical testing, that the minor does not have a sex chromosome structure, sex steroid hormone production, or sex steroid hormone action, that is normal for a biological male or biological female; or

(3) A minor needing treatment for an infection, injury, disease, or disorder that has been caused or exacerbated by any action or procedure prohibited by section 2 of this Act.

Section 4. That chapter 34-24 be amended with a NEW SECTION:

If a professional or occupational licensing board finds, by a preponderance of the evidence and in compliance with chapter 1-26, that a healthcare professional licensed or certified by the board has violated section 2 of this Act, the board must revoke any professional or occupational license or certificate held by the healthcare professional.

Section 5. That chapter 34-24 be amended with a NEW SECTION:

Any civil action to recover damages for injury suffered as a result of a violation of section 2 of this Act must be commenced before the later of:

(1) The date on which the person reaches age twenty-five; or

(2) Within three years from the time the person discovered or reasonably should have discovered that the injury or damages were caused by the violation.

Section 6. That chapter 34-24 be amended with a NEW SECTION:

If, prior to July 1, 2023, a healthcare professional has initiated a course of treatment, for a minor, which includes the prescription or administration of any drug or hormone prohibited by section 2 of this Act, and if the healthcare professional determines and documents in the minor's medical record that immediately terminating the minor's use of the drug or hormone would cause harm to the minor, the healthcare professional may institute a period during which the minor's use of the drug or hormone is systematically reduced. That period may not extend beyond December 31, 2023.

Signed February 13, 2023

Chapter 128

(House Bill 1145)

An Act to revise the order of precedence for the right to control the disposition of the remains of a deceased person.

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

Section 1. That § 34-26-75 be AMENDED:

34-26-75. Except as provided in §§ 34-26-74 and 34-26-76, the duty to bury, find a grave for, and provide the grave of the deceased person with a permanent concrete, metal~~--~~anchored~~--~~in~~--~~concrete, or stone marker~~,~~; and the right to control the disposition of the remains of a deceased person, the location, manner and conditions of disposition, and arrangements for funeral goods and services to be provided; vests in the following, in the order named, provided ~~such~~ the person is ~~18~~ eighteen years or older and is of sound mind:

(1) A person designated by the decedent as the person with the right to control the disposition in an affidavit executed in accordance with § 34-26-77;

(2) A person designated in the federal Record of Emergency Date Form DD 93, or its successor form, to have the right of disposition by a member of the military who dies while under active-duty orders, as described in 10 U.S.C. § 1481, in effect on January 1, 2022;

(3) The surviving spouse;

(4) The sole surviving child of the decedent, or if there is more than one child of the decedent, the majority of the surviving children. However, less than one-half of the surviving children are vested with the rights of this section if they have used reasonable efforts to notify all other surviving children of their instructions and are not aware of any opposition to those instructions on the part of more than one-half of all surviving children;

(5) The surviving parent or parents of the decedent. If one of the surviving parents is absent, the remaining parent is vested with the rights and duties of this section after reasonable efforts have been unsuccessful in locating the absent surviving parent;

(6) The surviving brother or sister of the decedent, or if there is more than one sibling of the decedent, the majority of the surviving siblings. However, less than the majority of surviving siblings are vested with the rights and duties of this section if they have used reasonable efforts to notify all other surviving siblings of their instructions and are not aware of any opposition to those instructions on the part of more than one-half of all surviving siblings;

(7) The surviving grandparent of the decedent, or if there is more than one surviving grandparent, the majority of the grandparents. However, less than the majority of the surviving grandparents are vested with the rights and duties of this section if they have used reasonable efforts to notify all other surviving grandparents of their instructions and are not aware of any opposition to those instructions on the part of more than one-half of all surviving grandparents;

(8) The ~~guardian of the~~ person ~~of the~~ named as personal representative in the last will and testament of the decedent ~~at the time of the decedent's death, if one had been appointed~~;

(9) The guardian of the person ~~named as personal representative in the last will and testament~~ of the decedent at the time of the decedent's death, if one had been appointed;

(10) The person in the classes of the next degree of kinship, in descending order, under the laws of descent and distribution to inherit the estate of the decedent. If there is more than one person of the same degree, any person of that degree may exercise the right of disposition;

(11) If the disposition of the remains of the decedent is the responsibility of the state or a political subdivision of the state, the public officer, administrator, or employee responsible for arranging the final disposition of decedent's remains; or

(12) In the absence of any person under subdivisions (1) to (11), inclusive, of this section, any other person willing to assume the responsibilities to act and arrange the final disposition of the decedent's remains, including the funeral director with custody of the body, after attesting in writing that a good faith effort has been made to no avail to contact the individuals under subdivisions (1) to (11), inclusive, of this section.

Signed February 28, 2023

Chapter 129

(Senate Bill 141)

An Act to clarify and modernize cremation requirements and procedures.

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

Section 1. That § 34-26-75 be AMENDED:

34-26-75. Except as provided in §§ 34-26-74 and 34-26-76, ~~the duty to bury, find a grave for, and provide the grave of the deceased person with a permanent concrete, metal anchored in concrete, or stone marker, and~~ the right and the duty to control the disposition of ~~the~~ a decedent's remains ~~of a deceased person~~, including the location, manner~~,~~ and conditions of disposition, and arrangements for the provision of funeral goods and services ~~to be provided,~~ vests in the following, in the order named, provided ~~such~~ the person is 18 years or older and is of sound mind:

(1) A person designated by the decedent ~~as the person with the right to control the disposition in an affidavit executed,~~ in accordance with § 34-26-77;

(2) A person designated in the federal Record of Emergency Date Form DD 93~~,~~ or its successor form, ~~to have the right of disposition~~ by a member of the military who dies while under active-duty orders, as described in 10 U.S.C. § 1481, in effect on January 1, 2022;

(3) The ~~surviving~~ decedent's spouse;

(4) The ~~sole surviving~~ child of the decedent~~,~~ or ~~if there is more than one child of the decedent,~~ the majority of the ~~surviving~~ decedent's children~~. However, less than one-half of the surviving children are vested with the rights of this section~~, provided that a lesser number must suffice if they have ~~used~~ made reasonable efforts to notify ~~all~~ the other ~~surviving~~ children of their instructions and are not aware of any opposition ~~to those instructions~~ on the part of ~~more than one-half of all surviving children~~ the majority;

(5) The ~~surviving parent or~~ parents of the decedent~~. If~~ or one ~~of the surviving parents is absent, the remaining parent is vested with the rights and duties of this section after~~ parent of the decedent, if reasonable efforts to locate the other parent have been unsuccessful ~~in locating the absent surviving parent~~;

(6) The ~~surviving brother or sister~~ sibling of the decedent~~, or if there is more than one sibling of the decedent,~~ or the majority of the ~~surviving~~ decedent's siblings~~. However, less than the majority of surviving siblings are vested with the rights and duties of this section~~, provided that a lesser number must suffice if they have ~~used~~ made reasonable efforts to notify ~~all~~ the other ~~surviving~~ siblings of their instructions and are not aware of any opposition ~~to those instructions~~ on the part of ~~more than one-half of all surviving siblings~~ the majority;

(7) The ~~surviving~~ grandparent of the decedent~~, or if there is more than one surviving grandparent,~~ or the majority of the decedent's grandparents~~. However, less than the majority of the surviving grandparents are vested with the rights and duties of this section~~, provided that a lesser number must suffice if they have ~~used~~ made reasonable efforts to notify ~~all other~~ the other ~~surviving~~ grandparents of their instructions and are not aware of any opposition ~~to those instructions~~ on the part of ~~more than one-half~~

~~of all surviving grandparents~~ the majority;

(8) The ~~guardian of the person of the decedent at the time of the decedent's death, if one had been appointed~~ decedent's guardian;

(9) The person named as the personal representative in the decedent's last will and testament ~~of the decedent~~;

(10) The person in the classes of the next degree of kinship, in descending order, under the laws of descent and distribution ~~to inherit the estate of the decedent. If~~, provided if there is more than one person of the same degree, any person of that degree may ~~exercise the right of~~ control the disposition;

(11) ~~If the disposition of the remains of the decedent is the responsibility of the state or a political subdivision of the state, the~~ The public officer, administrator, or employee responsible for ~~arranging the~~ final ~~disposition of decedent's remains~~ dispositions, if the decedent was the responsibility of the state or a political subdivision of this state; or

(12) ~~In the absence of any person under subdivisions (1) to (11), inclusive, of this section, any~~ Any other ~~person~~ willing ~~to assume the responsibilities to act and arrange the final disposition of the decedent's remains~~ person, including the funeral director with custody of the body, ~~after attesting in writing~~ provided the person attests that ~~a good faith effort has~~ reasonable efforts have been made to ~~no avail to~~ contact ~~the individuals under subdivisions (1) to (11), inclusive, of~~ other persons listed in this section.

For the purposes of this section, the right and the duty to control disposition includes providing authorization for a cremation.

Section 2. That § 34-26A-1 be AMENDED:

34-26A-1. Terms used in this chapter mean:

(1) ~~"Board," the State Board of Funeral Service;~~

~~(1A) "Casket," a rigid container which is designed for the encasement of human remains and which is usually constructed of wood, metal, or like material and ornamented and lined with fabric;~~

~~(2) "Closed container," any container in which cremated remains can be placed and closed in a manner so as to prevent leakage or spillage of cremated remains or the entrance of foreign material~~"Alternative container," a receptacle into which a decedent is placed for transport to a crematory and cremation and which:

(a) Is made of combustible material;

(b) Provides complete covering for the decedent;

(c) Is impermeable;

(d) Is sufficiently rigid for handling; and

(e) Provides protection for the health and safety of crematory personnel;

~~(3)~~(2) "Cremated remains," all human remains recovered ~~after the~~ upon completion of the cremation process, ~~including pulverization which leaves only bone fragments reduced to unidentifiable dimensions~~ together with the residual of:

(a) The container used for the cremation, if combustible;

(b) Dental work; and

(c) Combustible personal effects;

~~(4)~~(3) "Cremation," the ~~technical process, using heat, that reduces~~ process of:

(a) Using heat and flame to reduce human remains to ashes and bone fragments~~. The reduction takes place through heat and evaporation~~; and

(b) The subsequent pulverization of any remaining bone fragments;

~~(5)~~(4) "Cremation chamber," the enclosed space within which the cremation process ~~takes place. Cremation chambers covered by these procedures shall be used exclusively for the cremation of human remains;~~

~~(6) "Cremation container," the container in which the human remains are placed in the cremation chamber for a cremation. A cremation container shall be composed of readily combustible materials suitable for cremation, be able to be closed in order to provide a complete covering for the human remains, be resistant to leakage or spillage, be rigid enough for handling with ease, and be able to provide protection for the health, safety, and personal integrity of crematory personnel;~~

~~(7) "Crematory authority," the legal entity or the authorized representative of the legal entity which is licensed by the board to operate a crematory and perform cremation~~ occurs;

~~(8)~~(5) "Crematory," the building or portion of a building that houses the cremation chamber and the holding facility;

~~(9)~~(6) "Holding facility," an area that is within or adjacent to ~~the~~ a crematory ~~facility,~~ designated for the retention of ~~human remains~~ decedents prior to their cremation ~~that complies with any applicable public health law, preserves the dignity of the human remains, recognizes the integrity, health, and safety of the crematory authority personnel operating the crematory~~, and ~~is~~ secure from access by ~~anyone other than authority personnel~~ unauthorized persons;

~~(10) "Human remains," the body of a deceased person, not including pathological waste;~~

~~(11) "Niche," a compartment or cubicle for the memorialization or permanent placement of an urn containing cremated remains;~~

~~(12) "Pathological waste," human tissues, organs, and blood or body fluids, in liquid or semiliquid form, that are removed from a person for medical purposes during treatment, surgery, biopsy, or autopsy;~~

~~(13) "Scattering area," a designated area for the scattering of cremated remains;~~

~~(14)~~(7) "Processing," the reduction of identifiable bone fragments to unidentifiable bone fragments; and

(8) "Temporary container," a receptacle ~~for cremated remains usually~~ made of cardboard, plastic film, or similar material ~~designed to hold the~~, intended for the purpose of holding cremated remains until an urn or other permanent container is acquired~~; and~~

~~(15) "Urn," a receptacle designed to permanently encase the cremated remains~~.

Section 3. That § 34-26A-3 be AMENDED:

34-26A-3. ~~Any resident of this state, or any cemetery, funeral establishment, corporation, partnership, joint venture, voluntary organization, or any other entity may erect, maintain, and operate a crematory in this state and provide the necessary appliances and facilities for the cremation of human remains in accordance with this chapter.~~

The operation of any crematory in this state ~~shall~~, other than a medical facility crematory, must at all times be under the direction and supervision of a ~~licensed funeral director and a licensed funeral establishment, each licensed pursuant to chapter 36-19. However, any medical facility cremating either whole or specific body parts does not need to be under the direction and supervision of a licensed funeral director and licensed funeral establishment. A crematory shall conform with all local building codes and environmental standards, and it may be constructed on, or adjacent to, any cemetery, on or adjacent to any funeral establishment that is zoned commercial or industrial, or at any other location consistent with local zoning regulations~~ person who:

(1) Is licensed as a funeral director, in accordance with chapter 36-19; and

(2) Has successfully completed a crematory operator program approved by the State Board of Funeral Service.

Section 4. That chapter 34-26A be amended with a NEW SECTION:

Each crematory in this state must be licensed by the State Board of Funeral Service. To obtain licensure for a crematory, a person must:

(1) Submit an application to the board, at the time and in the manner required by the board;

(2) Identify, on the application, all certified crematory operators employed at the crematory;

(3) Provide evidence that a motorized or mechanical device is available for the processing of cremated remains; and

(4) Provide evidence that a refrigerated facility is available for the retention of decedents awaiting cremation.

Upon approval of an application, the board shall require that the applicant pay an initial licensure fee in an amount not exceeding one hundred dollars.

Section 5. That chapter 34-26A be amended with a NEW SECTION:

Licensure as a crematory, issued in accordance with section 4 of this Act, expires one year after the date of issuance and must be renewed annually, at the time and in the manner determined by the State Board of Funeral Service. The board may inspect any crematory, during regular business hours, to verify compliance with applicable laws and rules and shall inspect each crematory, during regular business hours, at least once every three years.

The board shall require a renewal fee in the amount of one hundred dollars.

Section 6. That chapter 34-26A be amended with a NEW SECTION:

The State Board of Funeral Service may, after notice and a hearing, suspend or revoke licensure issued in accordance with section 4 of this Act. The board shall promulgate rules, in accordance with chapter 1-26, to establish the grounds for suspension or revocation of the licensure.

Section 7. That chapter 34-26A be amended with a NEW SECTION:

Whenever a decedent is delivered to a crematory for cremation, crematory personnel shall complete a receipt that includes:

(1) The name of the decedent;

(2) The name and employer of the person who delivered the decedent to the crematory;

(3) The date and time of the delivery;

(4) The name of the crematory employee who accepted the delivery; and

(5) Any funeral home or other entity involved in the disposition of the decedent's remains.

The receipt must be signed by the person who delivered the decedent to the crematory and by the employee who accepted the delivery on behalf of the crematory.

The crematory shall retain the receipt in accordance with the record retention provisions set forth in section 24 of this Act.

A crematory may not accept unidentified human remains.

Section 8. That chapter 34-26A be amended with a NEW SECTION:

Except as otherwise provided in this section, a decedent may not be cremated for twenty-four hours following:

(1) The decedent's time of death, as pronounced by a physician, or other health care professional acting within the person's scope of practice; or

(2) The time at which a declaration of the decedent's death is made by the coroner or other person having the authority to make that declaration.

The prohibition set forth in this section may be waived, in writing, by a physician or by the coroner, if death is the result of a virulent communicable disease.

If a death is being investigated by a coroner, cremation may not take place before a written release is provided by the investigating coroner.

Section 9. That chapter 34-26A be amended with a NEW SECTION:

A form authorizing cremation must:

(1) Contain the decedent's name and the manner in which the decedent's identity was verified;

(2) Contain the name of the crematory and the person accepting the authorization to cremate on behalf of the crematory;

(3) Indicate the auspices under which the person is authorizing the cremation, as set forth in § 34-26-75;

(4) Provide for a statement indicating that the person authorizing the cremation:

(a) Has no knowledge of any other person with a superior right to authorize the cremation, as provided for in § 34-26-75; or

(b) Has knowledge of another person with a superior right to authorize the cremation, as provided for in § 34-26-75, has made a reasonable effort but been unable to contact that other person,

and has no reason to believe that the other person would object to the authorization of a cremation;

(5) Provide for a question regarding knowledge of any pacemaker, defibrillator, or other device or implant that might:

(a) Pose a hazard to the health or safety of crematory personnel; or

(b) Cause damage to the cremation chamber;

(6) Indicate whether the cremation is to include the casket or an alternative container in which the decedent was delivered to the crematory;

(7) Include the name of any person authorized to witness the cremation;

(8) Include the name of the person who is to receive the cremated remains;

(9) Include instructions regarding the manner in which any personal property delivered to the crematory with the decedent's remains are to be handled;

(10) Include instructions for the disposition of the cremated remains, in accordance with the provisions of this chapter or directives set forth in a pre-need cremation contract;

(11) Include an attestation, by the person authorizing the cremation, indicating that to the best of his or her knowledge, all statements and information contained in the authorization are accurate; and

(12) Include a statement specifically authorizing the cremation of the decedent and the processing and disposition of the remains in accordance with the directives set forth in the form.

A crematory may not proceed with the cremation of a decedent until the authorization form has been completed in accordance with the requirements of this section.

The crematory shall retain each authorization form required by this section in accordance with the record retention provisions set forth in section 24 of this Act.

Section 10. That chapter 34-26A be amended with a NEW SECTION:

If the person who signs an authorization to cremate, in accordance with section 9 of this Act, is aware of a pre-need contract that the decedent has entered into, the signer shall, to the extent possible, follow the decedent's directives.

Section 11. That § 34-26A-7 be AMENDED:

34-26A-7. If ~~an authorizing agent~~ the person who has the right and duty to control the decedent's remains, as provided for in § 34-26-75, is not ~~available~~ physically present to execute the form authorizing cremation ~~authorization form~~, ~~he~~ the person may delegate that authority to another ~~person in writing, or, if located outside of the area, by sending the crematory authority a telegram that contains the name, address, and relationship of the sender to the deceased and~~.

Once a crematory has received written notice of a delegation under this section, including the name and address of the ~~individual to whom authority is delegated. Upon receipt of the written delegation document or a copy of this telegram, this individual may serve as the authorizing agent and~~ delegatee, the crematory may allow the delegatee to execute the form authorizing cremation ~~authorization form, and the~~.

A crematory ~~authority may rely~~ that relies upon ~~the cremation~~ an

authorization ~~form without~~ executed in accordance with this section is immune from liability for any acts or omissions resulting from that reliance.

Section 12. That chapter 34-26A be amended with a NEW SECTION:

No funeral home or crematory, or any employee of either is required to verify the information provided in the form authorizing cremation, as set forth in section 9 of this Act, and no funeral home or crematory, or any employee of either may be held liable for any act or omission in reliance on the information provided in the form, unless the funeral home, crematory, or employee knew or should have known that the information was not accurate.

Section 13. That chapter 34-26A be amended with a NEW SECTION:

Upon accepting for cremation a body that has been embalmed, a crematory shall place the body in a holding facility, until the time of cremation.

Upon accepting for cremation a body that has not been embalmed, a crematory may place the body:

(1) In a refrigerated facility, until the time of cremation; or

(2) In a holding facility for up to eight hours and thereafter in a refrigerated facility, until the time of cremation.

Section 14. That chapter 34-26A be amended with a NEW SECTION:

Unless otherwise specified in the authorization to cremate form, a crematory may not:

(1) Remove the decedent from the casket or alternative container in which the decedent was delivered to the crematory;

(2) Fail to cremate the casket or alternative container in which the decedent was delivered to the crematory;

(3) Simultaneously cremate more than one decedent in the same cremation chamber;

(4) Permit any person to be present in the holding facility while a decedent is there awaiting cremation, permit any person to be present during the cremation, or permit any person to be present while the remains are removed from the cremation chamber, except:

(a) A crematory employee;

(b) The signer of the authorization to cremate form; and

(c) An invitee of the crematory director; or

(5) Remove from the decedent any dental bridge work or fillings, implants, or body parts.

Section 15. That chapter 34-26A be amended with a NEW SECTION:

A crematory that removes recyclable material from the cremation residue, in accordance with the authorization to cremate form, may deliver the material for recycling.

Section 16. That § 34-26A-14 be AMENDED:

34-26A-14. If the crematory ~~authority~~ receives the ~~human~~ remains of a deceased person ~~who the~~ and crematory ~~authority has~~ personnel have reason to

believe that the person may have died by unlawful means or that the person's death is subject to investigation under § 23-14-18, the crematory ~~authority~~ shall notify the coroner of the county where the death occurred ~~of this belief~~. After this notice, the ~~human~~ remains may not be cremated until the coroner has completed ~~his~~ any investigation, ~~if any,~~ and ~~authorization to cremate has been received in writing from the coroner by the crematory authority~~ provided the crematory with a written release.

Section 17. That § 34-26A-19 be AMENDED:

34-26A-19. ~~Immediately before being placed within the cremation chamber, the identification of the human remains, as indicated on the cremation container, shall be verified by the crematory authority and the identification shall be removed from the cremation container and placed near the cremation chamber control panel where it shall remain in place until the cremation process is complete~~ The crematory shall have procedures in place to provide for the identification and continuous tracking of human remains throughout the cremation process and until the remains are released.

Section 18. That § 34-26A-20 be AMENDED:

34-26A-20. Upon completion of ~~the~~ a cremation, ~~in so far as is possible,~~ crematory personnel shall remove, from the cremation chamber, all ~~of the~~ recoverable cremation residue ~~of the cremation process shall be removed from the cremation chamber. In so far as possible, all residual of the cremation process shall be separated from anything other than bone fragments and then be processed so as to reduce them to an unidentifiable particle. Anything other than the particles shall be removed from the cremated residuals and shall be disposed of by the crematory authority~~.

Crematory personnel shall place the cremated remains into an urn, if so directed in the authorization to cremate form. If no directives are included in the authorization to cremate form, crematory personnel shall place the cremated remains into a temporary container.

If all of the cremated remains do not fit in the selected urn or temporary container, crematory personnel shall place any remainder into an additional temporary container and release, deliver, or dispose of the urn and any containers in accordance with the directives in the authorization to cremate form.

Section 19. That chapter 34-26A be amended with a NEW SECTION:

Upon completion of a cremation, crematory personnel shall prepare a record of the cremation, and include the name of the decedent and the date and time of the cremation.

The crematory shall retain the record required by this section in accordance with the record retention provisions set forth in section 24 of this Act.

Section 20. That chapter 34-26A be amended with a NEW SECTION:

Upon completion of a cremation, the crematory shall file the burial permit with the local registrar of vital records, pursuant to § 34-25-24.

Section 21. That chapter 34-26A be amended with a NEW SECTION:

Whenever a crematory releases cremated remains, crematory personnel shall complete a receipt that includes:

(1) The name of the decedent;

(2) The name of the person to whom the cremated remains were released;

(3) The date and time of the release;

(4) The name of the crematory employee who released the cremated remains;

(5) Any funeral home or other entity involved in the disposition of the cremated remains.

The receipt must be signed by the person who released the cremated remains and the person who received the cremated remains.

If the cremated remains are to be shipped, the receipt must be signed by the person who released the cremated remains for shipping and a copy of the receipt must accompany the remains.

The crematory shall retain a receipt required by this section in accordance with the record retention provisions set forth in section 24 of this Act.

Section 22. That chapter 34-26A be amended with a NEW SECTION:

Any crematory shipping cremated remains shall use a mail or delivery service that provides package tracking and requires an authorized signature upon delivery to the recipient's address.

A crematory may not be held liable for the loss or misplacement of any cremated remains after acceptance, by the mail or delivery service, of the package containing the remains.

Section 23. That chapter 34-26A be amended with a NEW SECTION:

Each crematory shall follow the directives in the authorization to cremate form regarding the disposition of the cremated remains.

If the cremated remains are not claimed and if no other arrangements have been made within sixty days after the date of the cremation, the crematory or a funeral home may dispose of the remains by:

(1) Placing the remains in a grave, crypt, niche; or

(2) Scattering the remains in any manner and in any place not otherwise prohibited by law.

Any reasonable costs incurred by a crematory or a funeral home in disposing of unclaimed cremated remains, in accordance with this section, are the responsibility of the person who signed the authorization to cremate form or the person having the right to control the disposition.

Section 24. That chapter 34-26A be amended with a NEW SECTION:

Any record required in accordance with this chapter:

(1) Must be retained by the crematory for a period of at least seven years; and

(2) May be inspected by the State Board of Funeral Service, during regular business hours.

Section 25. That § 34-26A-31 be AMENDED:

34-26A-31. ~~No~~ A crematory ~~authority is liable for refusing to accept a body or to~~ may refuse to accept a decedent for or perform a cremation ~~until it receives a court order or other suitable confirmation that a dispute has been settled~~ if:

(1) It is aware of any dispute concerning the cremation ~~of human remains~~;

(2) It has ~~a~~ reasonable ~~basis for questioning~~ grounds to question any ~~of the representations made by the authorizing agent~~ representation made in the authorization to cremate form; or

(3) ~~For~~ It has any other lawful reason.

A crematory shall accept a decedent for and perform a cremation upon receiving an order from a court directing the activity or upon receipt of sufficient documentation indicating that any dispute or other ground or reason for the initial refusal has been resolved.

A crematory is immune from liability for refusing to accept a decedent for cremation and for refusing to perform a cremation, in accordance with this section.

Section 26. That § 34-26A-32 be AMENDED:

34-26A-32. ~~If a~~ A crematory ~~authority is aware of any dispute concerning the~~ may refuse to release or ~~disposition~~ dispose of ~~the~~ cremated remains~~, the crematory authority may refuse to release the cremated remains until~~ if it is aware of any dispute concerning the release or disposition of the remains.

A crematory shall release or dispose of the cremated remains upon receiving an order from a court directing the activity or upon receipt of sufficient documentation indicating that the dispute has been resolved ~~or the crematory authority has been provided with a court order authorizing the release of disposition of the cremated remains~~.

A crematory ~~authority is not liable~~ is immune from liability for refusing to release or dispose of cremated remains, in accordance with this section.

Section 27. That § 34-26A-33 be AMENDED:

34-26A-33. The ~~board~~ State Board of Funeral Service shall promulgate ~~reasonable~~ rules ~~pursuant to~~, in accordance with chapter 1-26, ~~as may be consistent with this chapter governing the cremation of human remains. The rules specifically shall include the minimum standards of~~ to establish:

(1) Standards for crematory sanitation~~, refrigeration, required~~;

(2) Standards for refrigeration;

(3) Standards for equipment~~,~~; and ~~fire~~

(4) Fire protection ~~for all crematories which the board may deem necessary for the protection of the public. A crematory authority may adopt reasonable rules, not inconsistent with this chapter, for the management and operation of a crematory~~ requirements.

Section 28. That § 34-26A-35 be AMENDED:

34-26A-35. ~~Holding oneself out to the public as a crematory authority without being licensed under this chapter, or performing a cremation without a cremation authorization form signed by an authorizing agent~~ It is a Class 1 misdemeanor to:

(1) Operate a crematory that is not licensed in accordance with this chapter;

(2) Perform a cremation without first obtaining a completed and signed authorization to cremate form; or

(3) Sign an authorization to cremate form with the knowledge that the form contains false or misleading information.

Section 29. That § 34-26A-37 be AMENDED:

34-26A-37. ~~Any~~ If a cremation is provided for in a pre-need contract~~, sold by, or pre-need arrangements made with, a cemetery, funeral establishment, or any other party, that includes a cremation, shall specify the ultimate~~ the contract must include provisions for the disposition of the cremated remains~~, and that portion of the agreement shall~~. Those provisions must be initialed by the individual ~~making~~ for or by whom the arrangements~~. If no additional or different instructions are provided to the crematory authority by the authorizing agent at the time of death, the crematory authority may release or dispose of the cremated remains as indicated in the pre-need agreement. Upon compliance with the terms of the pre-need agreement, the crematory authority is released from any liability concerning the disposition of the cremated remains~~ are being made.

Section 30. That § 34-26A-38 be AMENDED:

34-26A-38. ~~Any~~ Notwithstanding § 34-26-75, a person~~, on~~ may enter into a pre-need ~~basis, may~~ contract to authorize ~~his own~~ the person's cremation and the disposition of ~~his~~ their cremated remains~~, on a pre-need cremation~~. This authorization ~~and~~ must be signed by the person ~~as authorizing agent~~ and ~~by~~ two witnesses~~. The person may designate the crematory authority. A copy of this form shall be retained by the person and a copy sent to the crematory authority, if designated~~.

~~The person may transfer or cancel this cremation authorization at any time before his death, by providing written notice to the department and crematory authority, if applicable~~A contract entered into in accordance with this section must be retained by the other contracting party for the period of time required to fulfill the obligation, plus the additional period set forth in section 24 of this Act.

Any person who enters into a pre-need contract in accordance with this section may revoke the contract by providing written notice of the revocation to the other contracting party.

Section 31. That chapter 34-26A be amended with a NEW SECTION:

Whenever there is a change in the ownership of a licensed crematory, a representative of the crematory shall report the change to the board, within thirty days.

Section 32. That § 34-26A-40 be AMENDED:

34-26A-40. ~~If a completed pre-need cremation authorization form is in the possession of, or is provided to, a crematory authority and the crematory authority is in possession of the designated human remains, the~~ A crematory ~~authority shall cremate the human remains and dispose~~ that, in good faith, cremates and disposes of the cremated remains~~ pursuant to the instructions~~, in accordance with any directives contained~~ on the~~ in a pre-need contract authorizing the cremation~~ authorization form, and may do so without any~~, is immune from liability.

Section 33. That § 34-26A-2 be REPEALED:

~~The authorizing agent is any person according to the priority established in § 34-26-75 legally entitled to order the cremation of human remains. For an indigent or any other individual whose final disposition is the responsibility of the~~

~~state, a public official charged with arranging the final disposition of the deceased may serve as the authorizing agent. For an individual who has donated his body to science, or whose death occurred in a private institution, and in which the institution is charged with making arrangements for the final disposition of the deceased, a representative of the institution may serve as the authorizing agent.~~

Section 34. That § 34-26A-4 be REPEALED:

~~An application for licensure or renewal of a license as a crematory authority shall be on forms furnished and prescribed by the board. Applications shall be in writing, accompanied by a license or renewal fee of one hundred dollars and shall contain the name of the applicant, the address and location of the crematory, a description of the type of structure and equipment to be used in the operation of the crematory, and any other information the board may reasonably require. The board shall annually examine the premises and structure to be used as a crematory and shall issue a license or renew a license for the crematory authority, if the applicant meets all requirements of this chapter. If a change of ownership of a crematory occurs, within thirty days of the change, the crematory authority shall provide the board with the names and addresses of the new owners.~~

Section 35. That § 34-26A-5 be REPEALED:

~~No person may cremate any human remains, except in a crematory licensed for this express purpose and under the limitations provided in this chapter. A violation of this section is a Class 2 misdemeanor.~~

Section 36. That § 34-26A-6 be REPEALED:

~~Except as otherwise provided in this chapter, no crematory authority may cremate human remains until it has received:~~

~~(1) A cremation authorization form signed by an authorizing agent and the crematory authority. The cremation authorization form shall be provided by the crematory authority and shall contain the identity of the human remains, the name of the authorizing agent and the relationship between the authorizing agent and the deceased, authorization for the crematory authority to cremate the human remains, a representation that the authorizing agent is aware of no objection to the human remains being cremated by any person who has a right to control the disposition of the human remains, and the name of the person authorized to claim the cremated remains from the crematory authority;~~

~~(2) A completed and executed burial permit, as provided in § 34-25-24, indicating that the human remains are to be cremated; and~~

~~(3) Any other documentation required by the county or municipality.~~

Section 37. That § 34-26A-8 be REPEALED:

~~Upon the receipt of human remains, the crematory authority shall furnish to the person who delivers the human remains a receipt signed by both the crematory authority and the person who delivers the human remains showing the date of delivery, the name of the person from whom the human remains were received and that person's employer, the name of the person who received the human remains on behalf of the crematory authority, and the name and license number of the crematory authority, and the name of the deceased. The crematory authority shall retain a copy of this receipt.~~

Section 38. That § 34-26A-9 be REPEALED:

~~A crematory authority shall retain at its place of business a record of each cremation which takes place at its facility, which record shall contain the information provided for in §§ 34-26A-6 to 34-26A-8, inclusive, and the date the cremation and disposition of the cremated remains took place.~~

Section 39. That § 34-26A-10 be REPEALED:

~~No crematory authority may accept unidentified human remains. If the crematory authority takes custody subsequent to the human remains being placed within a cremation container, the crematory authority shall place appropriate identification upon the exterior of the cremation container.~~

Section 40. That § 34-26A-11 be REPEALED:

~~Upon completion of the cremation, the crematory authority shall file the burial permit with the local registrar of vital records pursuant to § 34-25-24.~~

Section 41. That § 34-26A-12 be REPEALED:

~~Except as provided in this section no crematory authority may make or enforce any rules requiring that human remains be placed in a casket before cremation or that human remains be cremated in a casket, nor may the crematory refuse to accept human remains for cremation for the reason that the human remains are not in a casket. No human remains delivered to a crematory may be removed from the cremation container and the cremation container shall be cremated with the human remains, unless the crematory authority has been provided with written instructions to the contrary by the authorizing agent.~~

Section 42. That § 34-26A-13 be REPEALED:

~~No human remains may be cremated within twenty four hours after the time of death, as indicated on the medical certificate of death, or the coroner's certificate. If the death is such as is to be investigated by a coroner, the human remains may not be cremated by the crematory authority until the coroner has completed his investigation and authorization to cremate has been received in writing from the coroner of the county in which the death occurred. In no instance may the lapse of time between the death and any cremation be less than twenty four hours, unless the death was a result of an infectious, contagious, or communicable and dangerous disease, and the time requirement is waived in writing by the coroner or the attending physician where the death occurred.~~

Section 43. That § 34-26A-15 be REPEALED:

~~No body may be cremated with a pacemaker in place. The party that authorizes the cremation of the human remains shall be responsible for taking all necessary steps to ensure that any pacemakers or hazardous implants are removed before cremation.~~

Section 44. That § 34-26A-16 be REPEALED:

~~A crematory authority may hold human remains, before the cremation of the remains, according to the following subdivisions:~~

~~(1) If a crematory authority is unable to cremate the human remains immediately upon taking custody of the remains, the crematory authority shall place the unembalmed human remains in a refrigerated holding facility;~~

~~(2) No crematory authority may be required to accept for holding a cremation container from which there is any evidence of leakage of the body fluids from the human remains therein; and~~

~~(3) Human remains that are not embalmed shall be held within a refrigerated facility.~~

Section 45. That § 34-26A-17 be REPEALED:

~~No unauthorized person may be permitted in the crematory area while any human remains are in the crematory area awaiting cremation, being cremated, or being removed from the cremation chamber.~~

Section 46. That § 34-26A-18 be REPEALED:

~~The unauthorized, simultaneous cremation of the human remains of more than one person within the same cremation chamber is forbidden, unless the crematory authority has received specific written authorization to do so from all authorizing agents for the human remains to be so cremated. A written authorization exempts the crematory authority from all liability for commingling of the product of the cremation process.~~

Section 47. That § 34-26A-21 be REPEALED:

~~Cremated remains shall be packed according to the following subdivisions:~~

~~(1) The cremated remains with proper identification shall be placed in a temporary container or urn. The temporary container or urn contents may not be contaminated with any other object, unless specific authorization has been received from the authorizing agent;~~

~~(2) The cremated remains with proper identification shall be placed within the temporary container or urn ordered by the authorizing agent. If the cremated remains within the temporary container or urn do not adequately fill its interior dimensions, the extra space may be filled with shredded paper, clean, absorbent cotton or comparable material, and the lid or top securely closed;~~

~~(3) If the cremated remains will not fit within the dimensions of a temporary container or urn the remainder of the cremated remains shall be returned to the authorizing agent or its representative in a separate container;~~

~~(4) If a temporary container is used to return the cremated remains, the container shall be placed in a suitable box and all box seams taped closed to increase the security and integrity of the container. The outside of the container shall be clearly identified with the name of the deceased person whose cremated remains are contained therein and the name of the cremation authority; and~~

~~(5) If the cremated remains are to be shipped, the temporary container or designated receptacle ordered by the authorizing agent shall be packed securely in a suitable cardboard box and all seams taped closed to increase the security and integrity of the container. Cremated remains shall be shipped only by a method which has an internal tracing system available and which provides a receipt signed by the person accepting delivery.~~

Section 48. That § 34-26A-22 be REPEALED:

~~The authorizing agent shall provide the person with whom cremation arrangements are made with a signed statement specifying the ultimate~~

~~disposition of the cremated remains. A copy of this statement shall be retained by the crematory authority.~~

Section 49. That § 34-26A-23 be REPEALED:

~~The authorizing agent is responsible for the disposition of the cremated remains. If, after a period of thirty days from the date of cremation, the authorizing agent has not specified the ultimate disposition or claimed the cremated remains, the crematory authority or the person in possession of the cremated remains may dispose of the cremated remains in any manner permitted by law. The authorizing agent is responsible for reimbursing the crematory authority for all reasonable expenses incurred in disposing of the cremated remains pursuant to this section. A record of such disposition shall be made and kept by the person making the disposition. Upon disposing of cremated remains under this section, the crematory authority or person in possession of the cremated remains is discharged from any legal obligation or liability concerning the cremated remains. This provision applies to all cremated remains currently in the possession of a crematory authority or other party.~~

Section 50. That § 34-26A-24 be REPEALED:

~~In addition to disposing of cremated remains in a crypt, niche, grave, or scattering garden located in a dedicated cemetery, or by scattering over the sea or other public waterways pursuant to § 34-26A-27, cremated remains may be disposed of in any manner on the private property of a consenting owner, upon direction of the authorizing agent. If cremated remains are to be disposed of on private property, other than dedicated cemetery property, the authorizing agent shall provide the crematory authority, with the written consent of the property owner and the legal description of the property.~~

Section 51. That § 34-26A-25 be REPEALED:

~~Except with the express written permission of the authorizing agent, no person may:~~

~~(1) Dispose of or scatter cremated remains in such a manner or in such a location that the cremated remains are commingled with those of another person. The provisions of this subdivision do not apply to the scattering of cremated remains at sea or by air from individual closed containers or to the scattering of cremated remains in an area located in a dedicated cemetery and used exclusively for such purposes; or~~

~~(2) Place cremated remains of more than one person in the same closed container. This subdivision does not apply to placing the cremated remains of members of the same family in a common closed container designed for the cremated remains of more than one person.~~

Section 52. That § 34-26A-26 be REPEALED:

~~Cremated remains shall be delivered by the crematory authority to the individual specified by the authorizing agent on the cremation authorization form. The representative of the crematory authority and the individual receiving the cremated remains shall sign a receipt indicating the name of the deceased, and the date, time, and place of receipt. The crematory authority shall retain a copy of this receipt. After this delivery, the cremated remains may be transported in any manner in this state, without a permit, and disposed of in accordance with the provisions of this chapter.~~

Section 53. That § 34-26A-27 be REPEALED:

~~Cremated remains may be scattered over a public waterway or sea, or on the private property of a consenting owner pursuant to the provisions of this chapter, if they are reduced to a particle size of one-eighth inch or less. A person may utilize a boat or airplane to perform the scattering. Cremated remains shall be removed from their closed container before they are scattered. Any person who scatters human remains, pursuant to this section, shall file with the local registrar of births and deaths, in the county nearest the point where the cremated remains are to be scattered, a verified statement containing the name of the deceased person, the time and place of death, the place at which the cremated remains are to be scattered, and any other information that the local registrar of births and deaths may require. If cremated remains are to be scattered pursuant to this section, the crematory authority may not release the cremated remains to the authorizing agent until the crematory authority has been provided with a receipt indicating that the proper filing has been made with the local registrar of births and deaths. The scattering of cremated remains in violation of this section is a Class 2 misdemeanor.~~

Section 54. That § 34-26A-28 be REPEALED:

~~Any person signing a cremation authorization form is deemed to warrant the truthfulness of any facts set forth in the cremation authorization form, including the identity of the deceased whose remains are sought to be cremated and that person's authority to order the cremation. Any person signing a cremation authorization form is personally and individually liable for all damage occasioned thereby and resulting therefrom.~~

Section 55. That § 34-26A-29 be REPEALED:

~~A crematory authority may cremate human remains upon the receipt of a cremation authorization form signed by an authorizing agent. No crematory authority that cremates human remains pursuant to an authorization or that releases or disposes of the cremated remains pursuant to an authorization, unless the crematory authority has actual knowledge that the representations contained in the cremation authorization form were untrue, is liable for such cremation.~~

Section 56. That § 34-26A-30 be REPEALED:

~~No crematory authority is responsible or liable for any valuables delivered to the crematory authority with human remains.~~

Section 57. That § 34-26A-34 be REPEALED:

~~Maintenance or operation of a building or structure within this state as a crematory in violation of the provisions of this chapter or the rules of the department adopted pursuant thereto is a public nuisance and may be abated as provided by law.~~

Section 58. That § 34-26A-36 be REPEALED:

~~Signing a cremation authorization form with the actual knowledge that the form contains false or incorrect information is a Class 1 misdemeanor.~~

Section 59. That § 34-26A-39 be REPEALED:

~~At the time of a person's death, any person in possession of an executed pre-need cremation authorization form and any person charged with making arrangements for the final disposition of the deceased who has knowledge of the~~

~~existence of an executed pre-need cremation authorization form, shall use his best efforts to ensure that the deceased is cremated and disposed of according to the instructions contained on the pre-need cremation authorization form.~~

Section 60. That § 34-26A-41 be REPEALED:

~~A crematory authority may employ a licensed funeral director for the purpose of arranging cremations with the general public, transporting human remains to the crematory, and processing all necessary paperwork.~~

Signed March 23, 2023

Chapter 130

(Senate Bill 204)

An Act to expand critical incident stress management to health care facility personnel providing emergency services.

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

Section 1. That § 34-50-1 be AMENDED:

34-50-1. Terms used in this chapter mean:

(1) "Critical incident stress," the acute or cumulative psychological stress or trauma that an emergency service provider may experience by providing services during a critical incident, crisis, disaster, or emergency. Critical incident stress is a strong emotional, cognitive, or physical reaction that has the potential to interfere with normal functioning, such as:

(a) Physical, mental, or emotional illness;

(b) Failure of usual coping mechanisms;

(c) Loss of interest in the job or in usual social relationships;

(d) Personality changes; or

(e) Loss of ability to function;

(2) "Critical incident stress management," any consultation, incident briefing and debriefing, on-site crisis intervention, counseling, risk assessment, case management services, harm prevention, and referral, provided ~~by any person designated by an appropriate state or local governmental unit or agency~~ to an emergency service provider affected by critical incident stress by:

(a) Any person designated by this state or a political subdivision of this state; or

(b) A health care facility licensed in accordance with chapter 34-12;

(3) "Critical incident stress management team," any person ~~designated by an appropriate state or local governmental unit or agency~~ who is:

(a) Designated by this state, a political subdivision of this state, or a health care facility licensed in accordance with chapter 34-12, to provide professional critical incident stress management to an emergency service provider affected by critical incident stress~~,~~

~~and certified~~; and

(b) Certified by the International Critical Incident Stress Foundation as a ~~Critical Incident Stress Management~~ critical incident stress management provider;

(4) "Peer support team member," any person, who is ~~a~~ :

(a) A peer of the emergency service provider, designated by ~~an appropriate state or local government unit~~ this state, a political subdivision of this state, or a health care facility licensed in accordance with chapter 34-12, to provide critical incident stress management services to the provider~~, and certified~~; and

(b) Certified by the International Critical Incident Stress Foundation as a ~~Critical Incident Stress Management~~ critical incident stress management provider; and

(5) "Emergency service provider~~" or "provider~~," any person who provides response services during a critical incident, by or on behalf of ~~a state or local governmental unit~~ this state, a political subdivision of this state, or a health care facility that is licensed in accordance with chapter 34-12 and provides emergency medical services.

Signed March 8, 2023

ENVIRONMENTAL PROTECTION

Chapter 131

(Senate Bill 92)

An Act to require that certain operations obtain their own general or individual water pollution permits.

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

Section 1. That § 34A-2-36.2 be AMENDED:

34A-2-36.2. Each concentrated animal feeding operation, as defined by ~~Title~~ 40 ~~Codified Federal Regulations Part~~ C.F.R. § 122.23 ~~dated~~ (January 1, ~~2007~~ 2023), shall operate under a general or individual water pollution control permit, issued pursuant to § 34A-2-36.

Section 2. That chapter 34A-2 be amended with a NEW SECTION:

If an operation processes or stores manure, or processes or stores process wastewater, as those terms are defined in 40 C.F.R. § 122.23 (January 1, 2023), without coverage under a concentrated animal feeding operation's general or individual water pollution control permit issued pursuant to §§ 34A-2-36 and 34A-2-36.2, and if the maximum number of permitted or unpermitted animals from which manure or process wastewater is processed or stored would meet the

definition of a large concentrated animal feeding operation, under 40 C.F.R. § 122.23 (January 1, 2023), that operation must obtain its own general or individual water pollution permit pursuant to § 34A-2-36.

Signed February 27, 2023

ALCOHOLIC BEVERAGES

Chapter 132
(House Bill 1176)

An Act to revise certain provisions regarding on-sale alcoholic beverage licenses for use at municipality-owned facilities.

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

Section 1. That § 35-4-14.1 be AMENDED:

35-4-14.1. Notwithstanding the provisions of § 35-4-11, any municipality may by resolution, without an election but subject to referendum, issue an on-sale license pursuant to subdivision 35-4-2(4) ~~to a~~ for use at any municipality-owned entertainment venue, event venue, event center, arena, performance hall, theater, outdoor amphitheater, convention center, stadium, athletic venue, recreation facility, municipal auditorium operated pursuant to chapter 9-52, or ~~to a~~ public convention hall operated pursuant to chapter 9-53 ~~for use during a convention activity or an entertainment event, including any theatrical or musical performance, rodeo, sporting event, or show. The selling, serving, or dispensing of any alcoholic beverage at the municipal auditorium may not occur more than one hour before the commencement of the event or at any time after the event is concluded~~. An on-sale license issued pursuant to this section must be used to support the primary public purpose of the municipality-owned facility during the hours the municipality-owned facility is open for its primary purpose. A license issued pursuant to this section must not be used at any municipality-owned facility for the primary purpose of only providing food and beverage services to the public. There is no fee for a license under this section. The governing body of any municipality that has obtained an on-sale license pursuant to this section may contract with any person or entity for purposes of providing food and beverage services at the municipality-owned facility and the use of any license issued pursuant to this section. A license issued pursuant to this section may not be transferred.

Section 2. That chapter 42-7A be amended with a NEW SECTION:

No video lottery machines may be placed in a facility with an on-sale license issued pursuant to section 1 of this Act.

Signed March 23, 2023

PROFESSIONS AND OCCUPATIONS

Chapter 133
(Senate Bill 76)

An Act to provide for licensure by endorsement for certain licensed professionals and occupations.

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

Section 1. That § 36-1D-1 be AMENDED:

36-1D-1. Notwithstanding any existing provisions related to licensure by endorsement or licensure by reciprocity in any applicable licensing statute, a licensing board or a department secretary, if the secretary is responsible for issuing the license, shall issue a license, certificate, registration, or permit to an applicant to allow practice in this state if, upon application to the licensing board, the applicant satisfies all of the following conditions:

(1) Holds a current license, certificate, registration, or permit from another state, territory, or country and the licensing board determines that state's, territory's, or country's requirements are substantially equivalent to or exceed the requirements established in this state;

(2) Demonstrates competency in the profession or occupation through methods determined by the licensing board or a department secretary, if the secretary is responsible for issuing the license~~, including having completed continuing education or having experience in the profession or occupation for at least two of the five years preceding the date of the application under this section~~;

(3) Has not committed any act that constitutes grounds for refusal, suspension, or revocation of a license, certificate, registration, or permit to practice that profession or occupation in this state unless the licensing board determines, in its discretion, that the act should not be an impediment to the granting of a license, certificate, registration, or permit to practice in this state;

(4) Is in good standing and has not been disciplined by the jurisdiction that issued the license, certificate, registration, or permit unless the licensing board determines, in its discretion, that the discipline should not be an impediment to the granting of a license, certificate, registration, or permit to practice in this state; and

(5) Pays any fees established by the licensing board by rules promulgated pursuant to chapter 1-26.

Section 2. That § 36-1D-2 be AMENDED:

36-1D-2. A licensing board or a department secretary, if the secretary is responsible for issuing the license, may issue a provisional license, certificate, registration, or permit to an applicant for licensure by endorsement while the applicant is satisfying remaining requirements for the licensure by endorsement as determined by the board. The holder of a provisional endorsement license issued under this section may practice until any of the following occurs:

(1) A license, certificate, registration, or permit is denied by the licensing board under this section;

(2) The expiration of the provisional endorsement license as established by the board by regulation; or

(3) The holder of the provisional endorsement license fails to comply with the terms of the provisional license.

Section 3. That § 36-1D-3 be AMENDED:

36-1D-3. Nothing in this chapter may be construed to override, supersede, or invalidate any compact or agreement already in place with regard to the regulation of any profession ~~under title 36~~ listed under § 36-1D-4.

Section 4. That § 36-1D-4 be AMENDED:

36-1D-4. The provisions of this chapter apply to ~~those practitioners licensed pursuant to chapters 36-4, 36-4A, 36-4B, 36-4C, 36-9, 36-9A, 36-9C, 36-10, 36-10B, 36-11, 36-19, 36-26, 36-27A, 36-29, 36-31, 36-32, 36-33, 36-34, 36-37, 36-38, and 34-11~~ any of the following:

(1) Any occupation licensed pursuant to title 36;

(2) Emergency medical technicians and emergency medical responders licensed pursuant to chapter 34-11;

(3) Water and wastewater operators licensed pursuant to chapter 34A-3;

(4) Teachers, administrators, and other educational professionals licensed pursuant to chapter 13-42; and

(5) Commercial pesticide applicators licensed pursuant to chapter 38-21.

Signed March 1, 2023

Chapter 134

(Senate Bill 181)

An Act to authorize the provision of medical records and the imposition of related fees.

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

Section 1. That chapter 36-2 be amended with a NEW SECTION:

Terms used in this Act mean:

(1) "Electronic health information," an electronic record of information about a patient's health, which is:

(a) Created, gathered, consulted, and managed by the patient's health care provider; and

(b) Made available to the patient through a patient portal;

(2) "Health care provider," any licensed health care facility or any person licensed, certified, or otherwise authorized or permitted by law to provide health care;

(3) "Medical record," information, in any form or medium, that pertains to a patient's health care, including the patient's medical history, diagnosis, prognosis, medical condition or billing, and is maintained by a health care provider for purposes of caring for the patient's health, provided the term does not include any information subject to the provisions of § 62-7-8;

(4) "Medical records company," an entity that stores, locates, or copies medical records for a health care provider;

(5) "Patient," any of the following:

(a) An individual who receives or has received health care from a health care provider;

(b) Any person authorized to make health care decisions for an individual referenced in subsection (a), pursuant to chapter 29A-5 or 34-12C, or §§ 59-7-2.1 and 59-7-2.4; or

(c) If the individual referenced in subsection (a) is a minor, the minor's parent, unless the minor lawfully obtained the health care documented in the applicable medical record without the consent or notification of the parent; and

(6) "Patient Portal," a secure online website that:

(a) Is owned and operated by a health care provider; and

(b) Gives a patient access to the patient's electronic health information from anywhere, using an internet connection.

Section 2. That chapter 36-2 be amended with a NEW SECTION:

Upon receiving a written request or an authorization for release of a medical record, signed by a patient, a health care provider or medical records company shall provide a copy of the patient's medical record, if available, to the patient or to any person duly authorized by the patient to receive the record.

Section 3. That chapter 36-2 be amended with a NEW SECTION:

A health care provider may not charge a patient a fee for access to the patient's electronic health information through a patient portal.

Section 4. That chapter 36-2 be amended with a NEW SECTION:

A health care provider or a medical records company may charge the following fees:

(1) For a paper copy of a medical record not specified below, the fee may not exceed ten dollars for the first ten pages and thirty-three cents for each additional page;

(2) For an electronic copy of a medical record not specified below, the fee may not exceed twenty-five cents per page;

(3) For a printed copy of an x-ray, magnetic resonance imaging, computerized tomography scan, or any other form of medical imaging, the fee may not exceed ten dollars; and

(4) For an x-ray, magnetic resonance imaging, computerized tomography scan, or any other form of medical imaging copied onto a compact disc, digital video disc, or other transportable electronic media, the fee may not exceed fifteen dollars.

A health care provider or medical records company may also impose a charge to cover the cost of postage or shipping, together with any applicable tax.

Section 5. That chapter 36-2 be amended with a NEW SECTION:

If a patient directs a health care provider or a medical records company to provide a copy of the patient's medical record directly to another person designated by the patient, or if a third party requests a copy of a patient's medical record pursuant to an authorization signed by the patient, the healthcare provider or medical records company may charge, in addition to any other fee allowed under this Act, a fee to search for the medical record, regardless of whether any record is found. The search fee may not exceed eighteen dollars.

Section 6. That chapter 36-2 be amended with a NEW SECTION:

A health care provider or medical records company may charge a fee for providing a signed certification, attesting that the copy of the medical record is an accurate and complete copy of the patient's original medical record on file for the time period specified in the request. The certification fee may not exceed ten dollars.

Section 7. That chapter 36-2 be amended with a NEW SECTION:

Sections 1 to 6, inclusive, of this Act apply to any medical record produced by a health care provider or medical records company pursuant to a subpoena issued under the authority of a court, an administrative body, or other tribunal.

Section 8. That § 36-2-17 be AMENDED:

36-2-17. A licensee, complying in good faith with ~~the provisions of § 36-2-16~~ sections 1 to 7, inclusive, of this Act, may not be held liable for any injury or damage proximately resulting from that compliance ~~with § 36-2-16~~.

Section 9. That § 36-2-16 be REPEALED:

~~A licensee of the healing arts shall provide copies of all medical records, reports and X-rays pertinent to the health of the patient, if available, to a patient or the patient's designee upon receipt by the licensee of a written request or a legible copy of a written request signed by the patient. A violation of this section is a Class 2 misdemeanor. The licensee may require before delivery that the patient pay the actual reproduction and mailing expense.~~

Signed March 23, 2023

Chapter 135

(House Bill 1059)

An Act to establish a community paramedic endorsement.

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

Section 1. That chapter 36-4B be amended with a NEW SECTION:

A community paramedic endorsement is hereby created. The board may issue a community paramedic endorsement to a person who:

(1) Is licensed as an emergency medical technician-paramedic;

(2) Completes the education requirements and training approved by the board and promulgated in accordance with § 36-4B-35; and

(3) Applies on a form prescribed by the board.

Section 2. That chapter 36-4B be amended with a NEW SECTION:

A person who holds a community paramedic endorsement shall practice in accordance with protocols and supervisory standards established by the board in accordance with § 36-4B-35. A person with a community paramedic endorsement may provide services as directed by a patient care plan if the plan has been developed by the patient's primary physician, an advanced practice registered nurse, or a physician assistant, in conjunction with the medical director of the ambulance service.

Section 3. That § 36-4B-35 be AMENDED:

36-4B-35. The board shall ~~adopt~~ promulgate rules, pursuant to chapter 1-26, to:

(1) Establish the educational and training curriculum requirements and the examination requirements for applicants to become licensed as advanced life support personnel;

(2) Establish the procedure for the administration of the advanced life support program and designate the responsibilities of the department and the board;

(3) Regulate the professional conduct of licensees; ~~and~~

(4) Establish the educational and training requirements and conditions for issuance of a critical care endorsement, as provided for in § 36-4B-18.1; and

(5) Establish the:

(a) Educational and training requirements and conditions for issuance of a community paramedic endorsement; and

(b) Practice protocols and supervisory requirements for a person with a community paramedic endorsement.

Signed March 17, 2023

Chapter 136

(Senate Bill 78)

An Act to create the South Dakota Board of Physical Therapy and make an appropriation therefor.

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

Section 1. That § 36-10-18 be AMENDED:

36-10-18. Terms used in §§ ~~36-10-18~~ 36-10-18.1 through 36-10-52 mean:

(1) ~~"Board of Examiners," or "board," the South Dakota State Board of Medical and Osteopathic Examiners;~~

~~(2)~~ "Physical therapist," a person who is licensed~~,~~ or ~~who~~ has obtained a compact privilege~~,~~ to practice physical therapy ~~under this chapter;~~

~~(3) "Physical therapy," the practice of physical therapy as defined in § 36-10-18.1~~;

~~(4)~~(2) "Physical therapist assistant," a person who is licensed~~,~~ or ~~who~~ has obtained a compact privilege~~,~~ to assist in providing physical therapy ~~services~~ under the supervision of a physical therapist ~~under this chapter;~~

~~(5) "Committee," the physical therapy advisory committee established in § 36-10-19~~; and

(3) "Supervision," the responsibility of a physical therapist to observe, direct, and review the work, records, and practice of a physical therapist assistant permitted by § 36-10-35.7, to ensure that the physical therapist assistant renders good and safe treatment to the patient.

Section 2. That § 36-10-18.1 be AMENDED:

36-10-18.1. ~~For the purposes of §§ 36-10-18 through 36-10-52, the~~ The practice of physical therapy is the examination and evaluation of ~~patients~~ a patient with a mechanical, physiological, ~~and~~ or developmental ~~impairments~~ impairment, a functional limitation, ~~and~~ a disability, or other similar ~~conditions in order to determine~~ condition to:

(1) Determine a diagnosis, prognosis, and therapeutic intervention; ~~alleviation of impairments and functional limitations~~

(2) Alleviate any impairment or functional limitation by designing, implementing, and modifying therapeutic interventions that include therapeutic exercise, functional training in community or work reintegration, manual therapy techniques including soft tissue and joint mobilization, assistive and adaptive devices and equipment, bronchopulmonary hygiene, debridement and wound care, physical agents and mechanical modalities, therapeutic massage, electrotherapeutic modalities, and patient-related instruction; ~~prevention of~~

(3) Prevent injury, ~~impairments~~ impairment, functional ~~limitations~~ limitation, and disability ~~including~~ through the promotion and maintenance of fitness, health, and quality of life, in all age populations; and

(4) Provide consultation, education, and research.

Section 3. That chapter 36-10 be amended with a NEW SECTION:

The State Board of Physical Therapy is created within the Department of Health.

The board shall:

(1) Exercise all statutorily prescribed functions and administrative functions; and

(2) Provide records, information, and reports to the secretary of the department, at the time and in the manner requested by the secretary.

Section 4. That chapter 36-10 be amended with a NEW SECTION:

The State Board of Physical Therapy consists of:

(1) Four persons who are licensed to practice physical therapy in this state and have practiced physical therapy in this state for a period of five years immediately preceding the appointment;

(2) One person who is licensed as a physical therapist assistant in this state; and

(3) Two persons who are representatives of the public and have no association with or financial interest in the provision of health care.

The Governor shall appoint each member of the board.

Section 5. That chapter 36-10 be amended with a NEW SECTION:

The term of office for each member of the State Board of Physical Therapy is four years and begins on July first. The Governor shall stagger the initial terms so that no more than two terms expire each year.

If a member's office is vacant, the Governor shall appoint a new member to complete the unexpired term.

A member may not serve for more than two consecutive full terms. A member who is appointed to fill an unexpired term is not considered to have served a full term, unless the duration of that service exceeds two years.

Section 6. That chapter 36-10 be amended with a NEW SECTION:

The Governor may remove a member of the State Board of Physical Therapy for misconduct, incompetence, or neglect of duty.

The Governor shall remove a member who ceases to possess the qualifications required by section 4 of this Act.

Section 7. That chapter 36-10 be amended with a NEW SECTION:

Annually, the State Board of Physical Therapy shall elect one member to serve as the chair and one member to serve as the vice-chair. The annual meeting and any other meetings of the board must be at a time and place designated by the chair or by a majority of the members.

Section 8. That chapter 36-10 be amended with a NEW SECTION:

Each member of the State Board of Physical Therapy is entitled to receive per diem compensation and reimbursement for expenses, as provided for in § 4-7-10.4, if the member is performing duties as directed by the board.

Section 9. That chapter 36-10 be amended with a NEW SECTION:

Each member of the State Board of Physical Therapy is immune from personal liability for any act or omission in the discharge of the member's responsibilities. The state shall hold the board, its members, and its agents harmless from all costs, damages, and attorney fees arising out of claims and suits against them, with respect to the discharge of their responsibilities.

Section 10. That § 36-10-25 be AMENDED:

36-10-25. Persons licensed under ~~the provisions of~~ this title, while practicing within the limits of their licensure, ~~shall~~ are not ~~be~~ prohibited ~~therefrom~~ from doing so by ~~the provisions of~~ this chapter.

Section 11. That § 36-10-27 be AMENDED:

36-10-27. A person ~~desiring~~ seeking licensure to practice physical therapy in ~~South Dakota~~ this state shall ~~file~~:

(1) File a written application with the State Board of ~~Examiners on forms provided by the board, together with~~ Physical Therapy;

(2) Submit an application fee~~, set by~~ in an amount established by the board, in rule pursuant to chapter 1-26, but not ~~to exceed sixty~~ exceeding three hundred dollars~~. The applicant shall present~~;

(3) Present evidence satisfactory to the board that the applicant is of good moral character; and

(4) Present evidence satisfactory to the board that the applicant has graduated from a physical therapy ~~curriculum~~ program accredited by an accrediting body recognized by the United States Department of Education or by the Commission on Recognition of Postsecondary Accreditation~~. If the applicant has graduated from a physical therapy curriculum that is not accredited by an accrediting body, the applicant shall~~ or present evidence satisfactory to the board that:

~~(1)~~(a) The applicant ~~has~~ completed a course of professional instruction equivalent to an approved program accredited by an accrediting body recognized by the United States Department of Education or the Commission on Recognition of Postsecondary Accreditation; and

~~(2)~~(b) The applicant has ~~achieved a score of~~ scored at least five hundred fifty on the ~~Test of English as a Foreign Language (~~TOEFL~~) examination, or~~, obtained a passing score on a comparative nationally recognized examination approved by the board, or ~~has~~ completed two years of secondary or postsecondary education in any educational institution in which the instruction is conducted in English.

Section 12. That § 36-10-27.1 be AMENDED:

36-10-27.1. In addition to the requirements in § § 36-10-27 and 36-10-35.1, an applicant for licensure shall submit to the ~~board~~ State Board of Physical Therapy a full set of the applicant's fingerprints in a form and manner prescribed by the board. The board shall deliver the fingerprints to the Division of Criminal Investigation to conduct a state and federal criminal ~~history record~~ background check by the division and the Federal Bureau of Investigation. The applicant shall sign a release of information to the board and pay any fees for the background check, including fingerprinting.

Upon completion of the background check, the division shall deliver to the board ~~all criminal history record~~ the applicant's criminal background information ~~regarding the applicant, and the~~. The board shall consider this information in determining whether to issue a license to the applicant. The board may not issue a license to the applicant before receiving this information.

The board may not disseminate an applicant's criminal ~~history record~~ background information to any person outside the board.

The board may require any licensee who is the subject of a disciplinary investigation by the board to submit to a state and federal criminal ~~history record~~ background check.

The board may deny the issuance of a license or suspend or revoke a license for failure to submit to or cooperate with a criminal background check.

Section 13. That § 36-10-29 be AMENDED:

36-10-29. The ~~board~~ State Board of Physical Therapy shall issue a license to each applicant who~~has~~:

(1) Has passed a national examination, recognized by the board, with a grade acceptable to the board; and ~~who otherwise meets~~

(2) Meets the ~~qualifications~~ requirements for licensure under this chapter and ~~the~~ rules promulgated by the board.

Section 14. That § 36-10-30 be AMENDED:

36-10-30. The State Board of ~~Examiners~~ Physical Therapy may ~~in its discretion~~, without examination, issue a license to any applicant who:

(1) Is registered by the Federation of State Boards of Physical Therapy; or

(2) Has passed a national examination recognized by the board, with a grade acceptable to the board, and meets the ~~qualifications~~ requirements for licensure under this chapter and ~~the~~ rules promulgated by the board.

Section 15. That § 36-10-31 be AMENDED:

36-10-31. The State Board of ~~Examiners~~ Physical Therapy may ~~in its discretion,~~ without examination, issue a license to any applicant ~~holding~~ who holds a license or certificate issued ~~to the applicant~~ by a board empowered by law to issue ~~licenses~~ a license to practice physical therapy in the District of Columbia or any state or territory in the United States, if the requirements for licensure of physical therapists in ~~the~~ that state or territory ~~in which the applicant was licensed~~ were, at the date of ~~his licensing~~ issuance, substantially equal to the requirements set forth in this chapter.

Section 16. That § 36-10-32 be AMENDED:

36-10-32. ~~Applications for~~ A person seeking licensure by reciprocity shall ~~be on forms~~:

(1) Apply to the State Board of Physical Therapy, using a form provided by the board~~, and such applicant shall provide~~;

(2) Provide the evidence required by this chapter and ~~the~~ rules of the board~~. The~~; and

(3) Submit an application fee ~~which shall accompany the application, shall be a sum, set by~~, in an amount established by the board, in rule~~, not to exceed sixty~~ pursuant to chapter 1-26, but not exceeding three hundred dollars.

Section 17. That § 36-10-33 be AMENDED:

36-10-33. ~~Any~~ A license issued by the ~~board~~ State Board of Physical Therapy, pursuant to ~~the provisions of~~ this chapter, expires on ~~the first day of~~ January first of the second year ~~next succeeding the~~ following its issuance ~~thereof~~. A license may be renewed upon ~~the~~ payment of ~~an annual~~ a fee ~~set~~, in an amount established by the board, ~~by~~ in rule ~~promulgated~~ pursuant to chapter 1-26, but not exceeding ~~the sum of fifty~~ three hundred dollars.

Failure of a licensee to renew the license on or before ~~the first day of~~ July ~~of each~~ first of the second year following issuance constitutes a forfeiture of the license.

Section 18. That § 36-10-35.1 be AMENDED:

36-10-35.1. A person ~~desiring~~ seeking licensure as a physical therapist assistant shall ~~file written application with~~:

(1) Apply to the State Board of ~~Examiners, together with~~ Physical Therapy;

(2) Submit an application fee ~~of not more than sixty dollars, to be~~ in an amount established by the board, in rule ~~promulgated~~ pursuant to chapter 1-26~~. The applicant shall present~~, but not exceeding three hundred dollars; and

(3) Present evidence satisfactory to the board ~~that:~~

~~(1) The applicant is a graduate~~ of:

(a) Graduation from an accredited physical therapist assistant's education program recognized by the board; and

~~(2)~~(b) ~~The applicant has passed~~ Passage of a written examination, approved by the board, which tests the applicant's knowledge on subjects relating to physical therapy.

Section 19. That § 36-10-35.2 be AMENDED:

36-10-35.2. The State Board of ~~Examiners~~ Physical Therapy shall issue a ~~license to an applicant for licensure as a~~ physical therapist assistant license to a person who ~~fulfills~~ meets the requirements set forth in § 36-10-35.1.

The license shall expire and may be renewed at the same time and in the same manner as provided ~~in~~ for physical therapy licenses under § 36-10-33 ~~for the expiration and annual renewal of a license to practice physical therapy~~.

Section 20. That § 36-10-35.8 be AMENDED:

36-10-35.8. A physical therapist may not ~~supervise~~, at any one time, supervise more than the equivalent of two full-time physical therapist assistants. The supervising physical therapist shall register, with the State Board of ~~Examiners~~ Physical Therapy, the name and address of each physical therapist assistant ~~who~~ whom the physical therapist is ~~responsible for~~ supervising. The registration ~~shall~~ must be ~~submitted~~ on a form provided by the board, and submitted at least fifteen days prior to the date ~~when~~ on which supervision is to commence.

The supervising physical therapist shall ~~notify~~, within ten days of termination, provide written notification to the board ~~in writing of the termination of~~, if the supervision of a physical therapist assistant ~~within ten days after the termination~~ is terminated. The supervising physical therapist may delegate responsibility for the supervision of a physical therapist assistant to another physical therapist, for a period not ~~to exceed~~ exceeding thirty days.

Section 21. That § 36-10-36 be AMENDED:

36-10-36. The State Board of ~~Examiners may~~ Physical Therapy shall promulgate rules, pursuant to chapter 1-26, pertaining to licensure, fees, discipline, supervision, and the continuing education ~~which promote the health and safety of persons utilizing the services~~ of physical therapists and physical therapist assistants ~~licensed under this chapter~~.

Section 22. That § 36-10-38 be AMENDED:

36-10-38. The State Board of ~~Examiners~~ Physical Therapy may, in compliance with chapter 1-26, refuse to grant a license under this chapter for unprofessional, immoral, or dishonorable conduct on the part of the applicant.

Section 23. That § 36-10-39 be AMENDED:

36-10-39. The State Board of ~~Examiners~~ Physical Therapy may cancel, revoke, or suspend the license of any physical therapist or physical therapist assistant, issued under this chapter, upon satisfactory ~~proof of such a~~ evidence of the licensee's incompetence, ~~or~~ unprofessional or dishonorable conduct, or ~~proof of a~~ violation of this chapter ~~in any respect~~.

Section 24. That § 36-10-40 be AMENDED:

36-10-40. The ~~phrase "~~ term, unprofessional or dishonorable conduct~~" as used in this chapter shall be construed to include~~, includes:

(1) Employing what is known as cappers or steerers;

(2) Willfully betraying a professional confidence;

(3) All advertising of physical therapy business, in which untruthful or improbable statements are made, or which are calculated ~~or~~ to mislead or deceive the public;

(4) Conviction of any ~~criminal offense of the grade of~~ felony, ~~or any~~ conviction of a criminal offense arising out of the practice of physical therapy, or ~~one in connection with any~~ conviction of a criminal offense involving moral turpitude;

(5) Habits of intemperance, or drug addiction, ~~calculated~~ which in the opinion of the ~~board to~~ State Board of Physical Therapy, affect the licensee's practice ~~of his profession~~;

(6) Sustaining any physical or mental disability ~~which~~ that renders the further practice of a licensee's profession dangerous;

(7) ~~Presenting~~ Presentation to the board of any license, certificate, or diploma, which was obtained by fraud, ~~or~~ by deception practiced in passing a required examination, or ~~which was obtained~~ by the giving of false statements or information on applying for ~~said license~~ licensure; and

(8) Illegally ~~or~~, fraudulently, or wrongfully obtaining a license required by this chapter, by ~~the~~:

(a) The use of any means, devices, ~~or~~ deceptions, or ~~helps~~ help in passing any examination~~,~~; or ~~by making~~

(b) Making false statements or misrepresentations in any ~~applications for information presented~~ application.

Unprofessional or dishonorable conduct, as defined in this section, ~~shall~~ may not be the basis for criminal prosecution unless the conduct is otherwise ~~declared~~ unlawful.

Section 25. That § 36-10-41 be AMENDED:

36-10-41. The State Board of Physical Therapy may initiate proceedings for the cancellation, revocation, or suspension of a license ~~may be initiated when the Board of Examiners~~ if the board has information that ~~any~~ a person~~, persons, firms, or corporation~~ may ~~have been guilty of any misconduct as provided in § 36-~~

~~10-40 or is~~ be guilty of incompetence~~,~~ or unprofessional or dishonorable conduct as provided in § 36-10-40.

Section 26. That § 36-10-43 be AMENDED:

36-10-43. All proceedings relative to the cancellation, revocation, or suspension of a license, or relative to reissuing a license ~~which~~ that has been revoked or suspended ~~shall only~~ may be held only when a majority of the ~~members of the~~ State Board of ~~Examiners are~~ Physical Therapy is present ~~at such hearings~~.

Section 27. That § 36-10-45 be AMENDED:

36-10-45. ~~The~~ A decision of the State Board of ~~Examiners~~ Physical Therapy to suspend, revoke, or cancel a license requires a majority vote of the board members.

Section 28. That § 36-10-46 be AMENDED:

36-10-46. Any party feeling aggrieved by any acts, rulings, or decisions of the State Board of ~~Examiners~~ Physical Therapy, relating to the refusal to grant a license or to the cancellation, revocation, or suspension of a license ~~shall have the right to~~ may appeal the decision, pursuant to chapter 1-26.

Section 29. That § 36-10-47 be AMENDED:

36-10-47. Upon written application establishing compliance with ~~existing~~ licensing requirements and for reasons the ~~board~~ State Board of Physical Therapy deems sufficient, the board~~, for good cause shown, by majority vote,~~ may, under such conditions as it may impose, reinstate or reissue a license to any person~~, persons, firm, or corporation~~ whose license has been suspended or revoked~~, provided, however, that upon~~.

Upon suspension of a license, the board ~~in such order~~ may provide for an automatic reinstatement ~~thereof~~ after a fixed period of time ~~as provided in the order~~.

Section 30. That § 36-10-48 be AMENDED:

36-10-48. Any person violating ~~the provisions of~~ this chapter may be enjoined from further violations at the suit of the state's attorney of the county ~~wherein~~ in which the violations occurred~~,~~ or suit may be brought by any ~~citizen~~ resident of this state.

An action for injunction ~~shall be~~ is an ~~alternate~~ alternative to criminal proceedings, and the commencement of one proceeding by the ~~board~~ State Board of Physical Therapy constitutes an election.

Section 31. That § 36-10-49 be AMENDED:

36-10-49. The State Board of ~~Examiners or the physical therapy committee, or both,~~ Physical Therapy shall investigate every alleged violation of this chapter~~,~~ pursuant to the procedures set forth in chapter 36-1C. If the alleged violation is committed by a nonlicensee, the board shall report the violation to the proper law enforcement officials ~~wherein the act is committed~~. The board may employ special counsel~~,~~ subject to the supervision, control and direction of the attorney general, assist in the prosecution of violations of this chapter, and expend the necessary funds for ~~such purpose~~ those purposes.

Section 32. That § 36-10-51 be AMENDED:

36-10-51. ~~An applicant for license renewal~~ In order to renew a license, a person shall submit evidence, satisfactory to the State Board of ~~Examiners that the applicant has complied~~ Physical Therapy, indicating compliance with the continuing education requirements established by the board. The board may waive the continuing education ~~requirement~~ requirements if the applicant submits evidence satisfactory to the board that the applicant was unable to comply ~~with the continuing education requirements~~ because of illness, disability, military service, or financial hardship.

Section 33. That § 36-10-52 be AMENDED:

36-10-52. A physical therapist may perform dry needling, if the physical therapist has acquired the knowledge and skills required for the competent performance of dry needling by successfully completing a course of study in dry needling approved by the ~~board~~ State Board of Physical Therapy, pursuant to rules promulgated ~~pursuant to~~ in accordance with chapter 1-26. The board may require a physical therapist who performs dry needling to provide proof of ~~completion of~~ having completed an approved course of study in dry needling.

For purposes of this chapter, dry needling is a skilled technique, performed by a physical therapist, using filiform needles to penetrate the skin and underlying tissues, to affect change in body structures and physical function capability, for the evaluation and management of neuromusculoskeletal conditions, pain, movement impairments, and disability.

Section 34. That chapter 36-10 be amended with a NEW SECTION:

The State Board of Physical Therapy licensure fund is created in the state treasury. Any money received by the board under this chapter must be deposited in the fund. Money in the fund is continuously appropriated to the State Board of Physical Therapy for use in administering sections 1 through 34, inclusive of this Act. Any interest earned on money in the fund must be deposited in the fund.

Section 35. That § 36-10-18.2 be REPEALED:

~~Supervision is the responsibility of the physical therapist to observe, direct, and review the work, records, and practice permitted by § 36-10-35.7 to ensure the patient, the physical therapist, and the physical therapist assistant that good and safe treatment is rendered.~~

Section 36. That § 36-10-19 be REPEALED:

~~The Board of Examiners shall appoint a physical therapy advisory committee, composed of three physical therapists to assist the board on all matters pertaining to the licensure, practice, and discipline of each person licensed to practice physical therapy in the state. The committee shall also make recommendations to the board on the promulgation of rules pertaining to physical therapy. Each committee member shall serve a term of three years. No member may serve more than three consecutive full terms. If a vacancy occurs, the board shall appoint a person to fill the unexpired term. The appointment of a person to an unexpired term is not considered a full term. The committee shall meet at least annually or as necessary to conduct business. The committee shall meet the requirements of chapter 1-25 regarding open meetings.~~

Section 37. That § 36-10-21 be REPEALED:

~~Persons nominated to serve on such committee shall have the following~~

~~qualifications:~~

~~(1) They must be residents of the State of South Dakota;~~

~~(2) They must be licensed to practice physical therapy in the State of South Dakota.~~

Signed March 8, 2023

Chapter 137

(House Bill 1015)

An Act to update provisions related to the licensure of funeral directors and the provision of funeral services.

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

Section 1. That § 36-19-1 be AMENDED:

36-19-1. Terms used in this chapter mean:

(1) "Board," the State Board of Funeral Service;

~~(1A)~~(2) "Branch chapel," a separate facility with a visitation room or chapel~~where~~, in which no embalming is permitted~~that~~, and which is owned by, a subsidiary of, or otherwise financially connected to or controlled by a licensed funeral establishment;

~~(2) "Embalmer," any person engaged in or conducting, or holding the person out as engaged in or conducting, the business of disinfecting, preserving, or both, or attempting to disinfect or preserve, or both, or cremate, dead human bodies, in whole or in part by use of chemicals externally, internally or by other methods, as approved by the department of health;~~

(3) "Funeral director," any person~~, partnership, limited liability company, corporation, association, or organization~~ engaged in or ~~conducting or~~holding ~~that person~~ out as being engaged in~~or conducting, at a funeral establishment, the business of preparing, other than embalming, for burial or disposal, and supervising the burial or disposal of dead human bodies, or who shall, in connection with the person's name or business, use the title, funeral director, undertaker, mortician, or any other title implying that the person is engaged in the business herein described~~:

(a) Conducting funeral services and burials of casketed remains;

(b) Disinfecting and preserving dead human bodies; or

(c) Cremating human remains;

(4) "Funeral establishment,"~~ any place of~~ a business~~ conducted~~, at a ~~specific street address or~~physical location, devoted to ~~the care and preparation~~caring for and preparing dead human bodies for burial or transportation~~ of dead human bodies~~;

(5) ~~"Funeral service," those service provided or rendered by an embalmer or funeral director, or both, as set forth in subdivisions (2) or (3) of this section~~;

~~(6)~~ "Trainee~~ in funeral service~~," any person who has registered with the board

and is engaged in ~~the~~ training ~~of~~ to provide funeral ~~service. However, no person may serve or attempt to serve as such trainee until that person has filed a registration with the board of funeral service as set forth in this chapter~~services.

Section 2. That § 36-19-2 be AMENDED:

36-19-2. The State Board of Funeral Service ~~shall include the five professional~~consists of five members ~~who shall~~ appointed by the Governor.

Four members must be persons who have been licensed to practice funeral service.~~The Governor shall appoint the professional members of the board. However, no person may be appointed as a professional member of the board who has not been licensed in this state, as an embalmer and funeral director, or to practice funeral service, for at least five years prior to appointment~~ for at least five years and are currently licensed in accordance with this chapter. One member must be a representative of the public who is not associated with or financially interested in the provision of funeral services and is not a member of a related profession or a practitioner of a related occupation.

The term of office ~~of appointed members~~ is three years. ~~The~~ In the event of a vacancy, the Governor shall~~, by appointment, fill any vacancy.~~

~~The board shall also include two lay members who are users of the services regulated by the board. The term, lay member who is a user, refers to a person who is not licensed by the board but, where practical, uses the service licensed. The term shall be liberally construed to implement the purpose of this section. The Governor shall appoint the lay members. The lay members shall have the same term of office as other members of the board~~ appoint a new member to fill the unexpired term.

~~No~~ A board member may not serve more than three consecutive full terms. ~~However,~~An appointment to fill an unexpired term is not considered ~~a complete~~to be a full term ~~for this purpose. The Governor may stagger the terms to enable the board to have different terms expire each year~~.

~~The terms of members begin~~Each term of office begins on October thirty-first ~~of the calendar year in which the Governor appoints the member, unless otherwise designated by the Governor. The appointee's term expires on October thirtieth in the third year of appointment.~~

~~Any member's term ending June 30, 2013, or thereafter is extended to October thirtieth in the year the term is to expire~~.

The ~~board shall also include the~~ secretary of health or the secretary's designee shall serve as ~~a~~ an ex officio, nonvoting member of the board.

Section 3. That § 36-19-6 be AMENDED:

36-19-6. The ~~State Board of Funeral Service~~board shall meet at least ~~once a~~ twice each year, at a time and place established by the board, and may ~~also~~ hold ~~special~~additional meetings ~~as frequently as the proper and efficient discharge of its duties requires.~~

~~Four members constitute a quorum for the transaction of business~~at the call of the president or at the request of a majority of the board.

Section 4. That § 36-19-6.1 be AMENDED:

36-19-6.1. The ~~State Board of Funeral Service~~ board shall continue within the Department of Health, and shall retain all its prescribed functions, including

administrative functions. The board shall submit such records, information, and reports in the form and at such times as required by the secretary of health~~, except that the board shall report at least annually~~.

Section 5. That § 36-19-7 be AMENDED:

36-19-7. ~~The State Board of Funeral Service may, pursuant to chapter 3-6D, determine the compensation of the secretary and other assistants as may be necessary to carry out the provisions of this chapter and any rules promulgated under this chapter. The board may incur other expenses as may be necessary. The compensation of the members and the other expenses of the board shall be paid out of the fees received from applicants and licensees~~Each member of the board shall receive per diem compensation in accordance with § 4-7-10.4 and reimbursement for expenses incurred while engaged in official business, as provided by law.

Section 6. That § 36-19-9 be AMENDED:

36-19-9. The ~~State Board of Funeral Service may elect, out of its own number~~board shall annually elect, from among its own members, a president, a vice-president, and~~ secretary-treasurer, and, pursuant to chapter 1-26, promulgate the rules as may be reasonable and proper to:~~

~~(1) Establish the minimum physical standards of licensees' funeral establishments;~~

~~(2) Regulate the inspection of each funeral establishment;~~

~~(3) Establish the educational, training, reciprocity and renewal requirements for licensure; and~~

~~(4) However, the board may not regulate the method and manner of providing funeral service.~~

~~The treasurer of the board shall give bond in the sum of five thousand dollars with sufficient sureties to be approved by the board, conditioned for the honest and faithful discharge of the treasurer's duties~~ a secretary.

Section 7. That § 36-19-12 be AMENDED:

36-19-12. ~~It shall be the duty of the State Board of Funeral Service to examine applicants for licenses as provided by this chapter; to keep all necessary records; receive registrations of trainees in funeral service; to control and issue reciprocal licenses and renewals of all other licenses as provided in this chapter; to revoke or suspend upon proper cause, and to provide hearings in such matters and to investigate any and all complaints originating from the violation of any section or sections of this chapter~~The board may:

(1) Issue and renew licenses, as provided in this chapter;

(2) Issue subpoenas, examine witnesses, administer oaths, conduct hearings and, at its discretion, investigate allegations of violations of this chapter, and impose penalties for such violations;

(3) Enter into contracts and employ necessary personnel to carry out its responsibilities under this chapter;

(4) Communicate disciplinary actions to state and federal authorities and to other state funeral director licensing authorities; and

(5) Perform other duties as necessary to administer this chapter.

Section 8. That chapter 36-19 be amended with a NEW SECTION:

The board shall promulgate rules, in accordance with chapter 1-26, to:

(1) Administer, coordinate, and enforce this chapter;

(2) Establish requirements for license application and renewal;

(3) Establish standards of professional conduct;

(4) Establish standards for the operation of a funeral establishment; and

(5) Establish fees for licensure application and licensure renewal, as provided for in §§ 36-19-25 and 36-19-27.

Section 9. That § 36-19-14 be AMENDED:

36-19-14. ~~No~~ A person ~~shall embalm~~may not, without being licensed as a funeral director by the board:

(1) Embalm any dead human body~~ or practice~~;

(2) Practice embalming~~, or direct~~;

(3) Conduct or supervise~~ funerals, practice~~ funeral ~~service,~~ services and burials of casketed remains; or ~~maintain~~

(4) Maintain a funeral establishment in ~~the State of South Dakota, without being licensed by the State Board of Funeral Service~~this state.

Section 10. That § 36-19-18 be AMENDED:

36-19-18. The ~~State Board of Funeral Service~~board shall provide for the registration of ~~trainees for license~~each trainee pursuing licensure to practice funeral service. ~~Trainees shall at all times remain registered with the board and~~ The board shall~~pay an initial~~, by rule promulgated in accordance with chapter 1-26, provide for a registration fee, which may not ~~to~~ exceed twenty-five dollars~~ set by the State Board of Funeral Service, by rule promulgated pursuant to chapter 1-26~~.

Section 11. That § 36-19-21 be AMENDED:

36-19-21. ~~In order to obtain a license in the practice of funeral service, the applicant shall submit evidence that the applicant is a citizen of the United States or a resident of South Dakota; is~~The board may issue a license to practice funeral service to any person who:

(1) Is at least eighteen years of age; ~~is of good moral character; has sixty semester hours credit from a college or university in a course approved by the State Board of Funeral Service; has completed one year's course at a school of embalming, accredited by the board; has completed one year's work as a trainee embalmer funeral director in this state; and has passed an examination on the following subjects: embalming and care, disposition and preservation of the bodies of deceased persons, sanitation for the prevention of the spread of infectious or contagious diseases, and local health and sanitation ordinances and regulations relating to mortuary science~~

(2) Submits an application on a form prescribed by the board;

(3) Pays the application fee established by the board, in accordance with section 8 of this Act;

(4) Has completed at least ninety credit hours offered by an accredited institution of higher education and obtained a degree or a certificate from

a mortuary science or funeral service program that is accredited by the American Board of Funeral Service Education;

(5) Has completed one year as a trainee under a person licensed pursuant to this chapter;

(6) Has passed the national board examination, administered by the International Conference of Funeral Service Examining Board; and

(7) Has not committed any act that constitutes a ground for denying, suspending, or revoking a license under this chapter.

Section 12. That § 36-19-25 be AMENDED:

36-19-25. A license to practice funeral service ~~shall be issued and is renewable~~must be renewed annually~~upon payment of a~~. The board shall, by rule promulgated in accordance with chapter 1-26, establish the renewal fee, which may not ~~to~~ exceed one hundred twenty-five dollars~~ set by the State Board of Funeral Service, by rule promulgated pursuant to chapter 1-26~~.

Section 13. That § 36-19-27 be AMENDED:

36-19-27. An application for a license to operate a funeral establishment ~~shall be submitted~~is required for each location~~and shall be in writing~~. The application must be on a form provided by the ~~State Board of Funeral Service and shall be accompanied by a fee not to exceed two hundred fifty dollars set by the State Board of Funeral Service, by rule promulgated pursuant to chapter 1-26. A license to operate a funeral establishment may be granted upon approval and recommendation by the state~~board and accompanied by an application fee.

The board shall, by rule promulgated in accordance with chapter 1-26, establish the application fee, which may not exceed two hundred fifty dollars.

The board may inspect the funeral establishment to verify compliance with state law and rules of the board.

The application ~~shall state~~for a license to operate a funeral establishment must include the name of the individual who is ~~duly~~ licensed ~~as either a funeral director or in funeral service~~under this chapter and ~~who shall be in charge and~~ responsible for managing all transactions conducted and services performed.

Section 14. That § 36-19-30 be AMENDED:

36-19-30. ~~Every~~ Each funeral establishment ~~shall~~ must be managed ~~and conducted~~ by a person licensed ~~to practice funeral service, or who is a licensed funeral director~~ under this chapter.

Section 15. That § 36-19-31 be AMENDED:

36-19-31. ~~Each~~ The board shall inspect each funeral establishment ~~shall be inspected annually by a member of the State Board of Funeral Service, or by an inspector employed by said board~~at least once every three years.

Section 16. That § 36-19-32 be AMENDED:

36-19-32. The holder of any funeral establishment license who transfers the location of ~~such~~ the establishment, ~~or~~ ceases to operate the ~~same~~establishment, or transfers ~~such~~ the license to another, shall, within five days thereafter, notify the ~~State Board of Funeral Service thereof. In case of transfer of such license~~board. If the location is transferred, the transferee shall ~~promptly furnish~~provide to the board the name of the individual who is ~~duly~~ licensed ~~as~~

~~either a funeral director or in funeral service, and who~~ will, ~~and shall, be in charge and~~, in accordance with this chapter, and is responsible for all transactions conducted and services performed ~~therein~~.

The board may inspect the new location to verify compliance with state law and rules of the board.

Section 17. That § 36-19-36 be AMENDED:

36-19-36. ~~Every~~ Each license issued under this chapter, ~~except~~ other than the funeral establishment license, ~~shall be nontransferable~~is not transferable and ~~shall~~ must be displayed by ~~such~~ the licensee in a conspicuous place in ~~his or her~~the licensee's office or place of business.

Section 18. That § 36-19-37 be AMENDED:

36-19-37. ~~All licenses~~Each license issued under ~~the provisions of~~ this chapter ~~are valid only until~~expires on the following December thirty-first ~~day of December.~~

~~If a licensee desires a renewal of such license, the State Board of Funeral Service shall grant it, except for cause in compliance with chapter 1-26. All applications~~.

Each application for renewal ~~shall~~ must be ~~made within thirty days prior to the expiration of the license and shall~~submitted to the board during the month of December and must be accompanied by a renewal fee. The board shall promulgate rules, in accordance with chapter 1-26, to establish the amount of the fee, which may not ~~to~~ exceed two hundred fifty dollars~~, set by the board, by rule promulgated pursuant to chapter 1-26~~.

Section 19. That § 36-19-38 be AMENDED:

36-19-38. The ~~State Board of Funeral Service, acting in compliance with chapter 1-26,~~ board may refuse to ~~grant,~~renew, and may suspend~~,~~ or revoke, any license if the license holder ~~or the license applicant~~:

(1) Obtained the license by fraud or misrepresentation either in applying for the license or in passing the examination for the license;

(2) Alters a license;

(3) Uses intoxicants or drugs to such a degree as to render the person unfit to practice funeral service ~~or funeral directing~~;

~~(3)~~(4) Has been convicted of ~~a~~ :

(a) A felony; or

(b) Any crime involving ~~moral turpitude. However, upon the conviction of a holder of a valid license, of a felony or crime involving moral turpitude, the conviction shall immediately and automatically revoke the license;~~

~~(4) Is not a person of good moral character~~ dishonesty, any conduct intended to deceive or defraud the public, or any other unprofessional conduct;

(5) Is guilty of malpractice in the business of funeral service ~~or funeral directing~~;

(6) Is guilty of ~~willful violation of any section of~~willfully violating this chapter, ~~or~~ any rule of the board, or any ~~rule of the state or any municipal board or department of health~~ordinance or federal regulation governing the

disposition, shipment, or transportation of dead human bodies;~~or willfully fails to make any report required by law or by the rules of the board;~~

(7) Signs a certificate stating that the person embalmed or prepared a dead human body for shipment or burial, ~~whereas~~ if in fact~~, someone, other than the~~ another person~~signing the certificate~~, other than a trainee for whom supervision was provided, embalmed or prepared the dead human body for shipment or burial;

(8) ~~Pays or~~ Directly or indirectly:

(a) Pays or causes to be paid, ~~directly or indirectly,~~ a commission for the securing of business; or~~, directly or indirectly solicits such~~

(b) Solicits business~~. However~~, provided that the soliciting of members or the selling of stock in any cooperative burial association is not a violation of this subdivision;

(9) Engages in any practice or conduct that constitutes a danger to the health, safety, or welfare of the public;

(10) Engages in any conduct that is unbecoming of a licensee or applicant;

(11) Has been disciplined by the board of another state or territory for any act or omission that would be a violation of this chapter or rules adopted by the board;

(11) Fails to report to the board:

(a) Any discipline imposed by the board of another state or territory;

(b) Any felony conviction; or

(c) Any conviction for an offense arising out of the practice of funeral service;

(12) Has employed, enabled, or assisted the unlicensed practice or provision of any service, other than that authorized by this chapter or rules adopted by the board;

(13) Fails to maintain adequate safety and sanitary conditions or other requirements of funeral establishments, as set forth in this chapter or rules adopted by the board pursuant to chapter 1-26; or

(14) Engages in any unfair or deceptive act or practice.

If the license as funeral director is held by a firm, corporation, association, or organization, the provisions of this section apply to the members of the board of directors, officers, and employees, as well as to the firm, corporation, association, or organization.

Section 20. That § 36-19-3 be REPEALED:

~~For the purpose of this chapter this state is hereby divided into five districts, and one professional member of the State Board of Funeral Service shall be appointed as provided in § 36-19-2 from each of the said districts. The first district shall consist of the following counties: Moody, Lake, the portion of McCook east of state highway 81, Minnehaha, Silver Lake, Grandview, Valley and Molan townships in Hutchinson, Turner, Lincoln, Union, Clay, Yankton. The second district shall consist of the following counties: Sanborn, Miner, Hanson, Jerauld, Buffalo, Aurora, Brule, Davison, the portion of McCook west of state highway 81, the remainder of Hutchinson, Douglas, Charles Mix, Bon Homme. The third district shall consist of the following counties: Roberts, Day, Grant, Codington, Clark, Hamlin, Deuel, Brookings, Kingsbury. The fourth district shall consist of the~~

~~following counties: Marshall, Brown, McPherson, Campbell, Walworth, Edmunds, Spink, Faulk, Potter, Sully, Hughes, Hyde, Hand, Beadle. The fifth district shall consist of the following counties: Bennett, Butte, Corson, Custer, Dewey, Fall River, Gregory, Haakon, Harding, Jackson, Jones, Lawrence, Lyman, Meade, Mellette, Oglala Lakota, Pennington, Perkins, Stanley, Todd, Tripp, Ziebach.~~

Section 21. That § 36-19-4 be REPEALED:

~~The appointive members of the State Board of Funeral Service, before entering upon their duties shall respectively take and subscribe the oath required by other state officers, which shall be filed in the Office of the Secretary of State.~~

Section 22. That § 36-19-5 be REPEALED:

~~The Governor may remove an appointive member of the State Board of Funeral Service for cause, and a member appointed to fill such vacancy caused by death, resignation, or removal shall serve during the unexpired term of his predecessor.~~

Section 23. That § 36-19-10 be REPEALED:

~~The State Board of Funeral Service shall be authorized to adopt and use a common seal.~~

Section 24. That § 36-19-13 be REPEALED:

~~No person shall be employed as an inspector by the State Board of Funeral Service unless such person has been licensed in this state as an embalmer and funeral director, and has practiced funeral service, for at least five years prior to his appointment.~~

Section 25. That § 36-19-17 be REPEALED:

~~Every funeral director who, on July 1, 1963, held a license which had been duly issued under the laws of this state, is entitled to have his license renewed annually upon payment of renewal fees of not to exceed fifty dollars set by the State Board of Funeral Service, by rule promulgated pursuant to chapter 1-26.~~

Section 26. That § 36-19-20 be REPEALED:

~~Any person desiring to obtain a license to practice funeral service under this chapter shall make application to the State Board of Funeral Service. The application shall contain such information as the board may require and be upon a form prepared by the board. Upon receipt of the application, the board shall fix a date and place for the examination of the applicant of which notice shall be given to the applicant by mail. At such time and place, a designee of the board, a board member, or a board staff member selected by a majority of the board shall proceed to examine the applicant under such rules the board may promulgate pursuant to chapter 1-26.~~

Section 27. That § 36-19-22 be REPEALED:

~~The examination required by § 36-19-21 shall be held at such times and places as the examining board shall deem most convenient for the applicants for examination, and, in accordance with the rules and regulations of the State Board of Funeral Service. Examination shall be in writing and the applicant must attain a grade of seventy-five per cent on each subject.~~

~~All examination papers of all applicants shall be kept on file by such board for a period of three years.~~

Section 28. That § 36-19-23 be REPEALED:

~~If an applicant for a license to practice funeral service has satisfactorily passed the national board examination given by the Conference of Funeral Service Examining Board of the United States, Incorporated, and is so certified to the State Board of Funeral Service by said Conference of Funeral Service Examining Board of the United States, Incorporated, said board may in its discretion accept the results of said national board examination in lieu of the written portion of the board's examination.~~

Section 29. That § 36-19-24 be REPEALED:

~~Any holder of a license issued by the state authority in any other state maintaining a system and standard of examination for license to engage in the practice of funeral service, which in the judgment of the State Board of Funeral Service, is substantially the equivalent to that required in this state, may be issued such a license after passing a written examination on questions concerning the laws and rules of the State of South Dakota upon the payment of the applicable fee pursuant to § 36-19-25.~~

Section 30. That § 36-19-25.1 be REPEALED:

~~The receipt of fees for initial licenses issued by the Board of Funeral Service is validated and is of the same force and effect as if the board had authority to set and collect such fees.~~

~~If a person has a vested right in any property because of the lack of authority referred to in this section, and if no action or proceeding to enforce such right was commenced prior to July 1, 1984, such right is forever barred, and no such action or proceeding may be brought or be of any force or effect, or be maintainable in any court of this state.~~

Section 31. That § 36-19-28 be REPEALED:

~~No establishment shall be classified as a funeral establishment unless it has a preparation room equipped with a sanitary floor of tile or linoleum, a table with sanitary top, suitable drainage and ventilation, and containing necessary instruments and supplies for the preparation and embalming of dead human bodies for burial or transportation, and a display room containing a reasonably adequate stock of funeral caskets and shipping cases.~~

Section 32. That § 36-19-33 be REPEALED:

~~In case of the death of a designated manager of a funeral establishment, who leaves such funeral establishment as part or all of his estate, the State Board of Funeral Service shall issue to the legal representative of such deceased person, a funeral establishment license. The fee for the application and renewal of such license, and the time of payment thereof, shall be the same as required in § 36-19-37 for such licenses.~~

Section 33. That § 36-19-34 be REPEALED:

~~Membership in the South Dakota Embalmers and Funeral Directors Association shall never be a condition to obtaining or holding any license under this chapter.~~

Section 34. That § 36-19-35 be REPEALED:

~~All licenses issued under this chapter shall be signed by a majority of the State Board of Funeral Service and attested by its seal and shall specify by name the person to whom issued.~~

Section 35. That § 36-19-40 be REPEALED:

~~An appeal from the decision of the State Board of Funeral Service may be taken as provided by chapter 1-26.~~

Section 36. That § 36-19-42 be REPEALED:

~~If any provision of this chapter or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable.~~

Section 37. That § 36-19-43 be REPEALED:

~~The Board of Funeral Services may comply with or exempt themselves from the federal trade commission rules on funeral industry practices pursuant to §§ 453.1 to 453.10, inclusive, volume 16 of the Code of Federal Regulations as amended and in effect on January 1, 1984.~~

Signed February 9, 2023

Chapter 138

(Senate Bill 77)

An Act to reinstate the restricted real estate broker's license for auctioneers and revise real estate licensing.

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

Section 1. That § 36-21A-1 be AMENDED:

36-21A-1. Terms used in this chapter mean:

(1) "Agency," any relationship by which one person acts for or on behalf of a client subject to the client's reasonable direction and control;

(2) "Agency agreement," a written agreement between a broker and a client that creates a fiduciary relationship between the broker and client. The payment or promise of payment of compensation to a responsible broker does not determine whether an agency relationship has been created between any responsible broker or licensees associated with the responsible broker and a client;

(3) "Auction," any public sale of real estate as defined in § 36-21A-11 or business property as defined in subdivision 36-21A-6 (3) at public offering to the highest bidder;

(4) "Auctioneer," any person licensed under this chapter ~~before July 1, 2020, or as a broker associate or responsible broker~~ who auctions, offers, attempts, or agrees to auction real estate or business opportunities;

(5) "Broker associate," any broker acting in association with or under the auspices of a responsible broker;

(6) "Client," any person, including a seller, landlord, buyer, or tenant, who has entered into an agency relationship with a real estate licensee;

(7) "Commission," the South Dakota Real Estate Commission;

(8) "Consumer," any person seeking or receiving services from a real estate broker;

(9) "Customer," any party to a real estate transaction who does not have an agency relationship with a licensee;

(10) "Designated broker," any broker licensee designated by a responsible broker to act for the company in the conduct of real estate brokerage;

(11) "In-company transaction," any transaction in which both the seller or landlord and the buyer or tenant receive real estate services from the same broker or from licensees associated with the same broker;

(12) "Licensee," any person holding a license issued pursuant to this chapter;

(13) "Limited agent," any licensee who has a written agency relationship with both the seller and the buyer in the same in-company transaction;

(14) "Person," any individual, corporation, limited liability company, partnership, limited partnership, association, joint venture, or any other entity, foreign or domestic;

(15) "Purchaser," any person who acquires or attempts to acquire or succeeds to an interest in real property;

(16) "Responsible broker," any person holding a broker's license issued pursuant to this chapter who is responsible for the real estate activities conducted by those licensees acting in association with or under the auspices of the responsible broker;

(17) "Served actively," if referring to a real estate salesman or broker associate, having the license on an active status with the commission;

(18) "Single agent," any licensee who represents only one party to a transaction;

(19) "Subdivider," a person who causes land to be subdivided into a subdivision for that person or others, or who undertakes to develop a subdivision. The term does not include a public agency or officer authorized by law to create subdivisions;

(20) "Subdivision," or "subdivided land," any real estate offered for sale and that has been registered under the Interstate Land Sales Full Disclosure Act, 82 Stat. 590 and following, 15 U.S.C. § 1701 and following, as the Act existed on January 1, 1980, or real estate located out of this state that is divided or proposed to be divided into fifty or more lots, parcels, or units;

(21) "Team," any two or more licensed persons who work under the supervision of the same responsible broker, work together on real estate transactions to provide real estate brokerage services, who are designated as a team by the responsible broker, and have a team leader designated by the responsible broker;

(22) "Team leader," any person licensed by the commission and designated by the person's responsible broker as the leader for the person's team. A

team leader is responsible for supervising the real estate activities of the person's team performed under this chapter, subject to the overall supervision of the responsible broker of the team leader and team members;

(23) "Transaction broker," a broker who assists one or more parties with a real estate transaction without being an agent or advocate for the interests of any party to the transaction. The term includes the licensees associated with the broker; and

(24) "Transaction broker agreement," a written agreement in which the broker does not represent either the seller or the buyer in a fiduciary capacity. No brokerage relationship may be created or implied by word or action alone, but only by written agreement clarifying the brokerage relationship.

Section 2. That § 36-21A-33 be AMENDED:

36-21A-33. An application may be denied for any one of the following reasons:

(1) The applicant has written insufficient funds checks within the calendar year before application or has written an insufficient funds check for the application;

(2) The applicant has been convicted of a felony or of a misdemeanor involving moral turpitude. If the applicant is a firm, a license may be denied if any partner, associate, director, stockholder, officer, or responsible broker has been convicted of a felony or of a misdemeanor involving moral turpitude;

(3) The applicant has been disciplined by a regulatory agency in relation to activities as a real estate salesperson or broker, broker associate, firm, appraiser, mortgage broker, auctioneer, or any other regulated licensee, including insurance, securities, law, and commodities trading;

(4) The applicant has failed to satisfy the requirements as provided by this chapter;

(5) The applicant has failed the prelicense school examination;

(6) The applicant has not met education requirements;

(7) The applicant made deliberate misstatements, deliberate omissions, misrepresentations, or untruths in the application; or

(8) The applicant has a current and unpaid judgment filed against the applicant.

Section 3. That § 36-21A-47 be AMENDED:

36-21A-47. The commission may promulgate rules pursuant to chapter 1-26 to provide for the issuance of a restricted broker's license to auctioneers, property managers, mortgage brokers, or time-share or residential-rental agents. The licensee may perform only those duties specified by the license. If the licensee exceeds the authority granted, the license may be terminated and criminal proceedings brought against the licensee.

Section 4. That § 36-21A-29 be AMENDED:

36-21A-29. This chapter does not apply to the following:

(1) Any person who as a bona fide owner or lessor, performs any of the acts

described in §§ 36-21A-6 and 36-21A-12 with reference to property owned, or leased by the person, or to any regular employees thereof, if ~~such~~ the acts are performed in the regular course of, or as an incident to the management of ~~such~~ the property or investment in ~~such~~ the property;

(2) Any public officer while performing the officer's duties;

(3) Any person owning and operating a cemetery and selling lots solely for use as burial plots;

(4) Any person acting as a receiver, trustee, personal representative, guardian or under court order, or while acting under authority of a deed, trust, or will;

(5) Any custodian, janitor, or employee of the owner or manager of a residential building who exhibits a residential unit therein to prospective tenants, accepts applications for leases and furnishes prospective tenants with information relative to the rental of the unit, terms and conditions of leases required by the owner or manager, and similar information;

(6) Any owner, manager, or employee of a business holding a lodging license while engaging in the lodging business;

(7) Any attorney at law, admitted to practice in South Dakota, unless the attorney holds himself or herself out to be in the real estate business or solicits real estate business, in which event the attorney may obtain a real estate license without examination, but the attorney is otherwise subject to the provisions of this chapter;

(8) Any bank, bank holding company or subsidiary thereof, credit union, trust company, savings and loan association, public utility, or any land mortgage or farm loan association organized under the laws of this state or the United States, if engaged in the transaction of business within the scope of its corporate powers as provided by law;

(9) Any person or company whose business practice is to collect a fee or compensation to publish real estate listings in print, electronic, or other media;

(10) Any person holding, in good faith, a duly executed power of attorney from the owner, authorizing the final consummation and execution for the sale, purchase, leasing, or exchange of real property, if ~~such~~ the acts are not of a recurrent nature and done with the intention of evading this chapter; and

(11) Any employee of any person enumerated in this section whose principal duties are other than those duties described in §§ 36-21A-6 and 36-21A-12, if engaged in the specific performance of the employee's duties~~; and~~

~~(12) Any person employed or contracted by a licensee to call or take bids in an auction~~.

Section 5. That § 36-21A-89 be AMENDED:

36-21A-89. The commission may promulgate rules pursuant to chapter 1-26 relating to the administration and enforcement of the provisions of this chapter in the following areas:

(1) Procedures for conducting the commission's business;

(2) Procedures and qualifications for application, minimum requirements for examination, procedures for the examination and the administration of the examination, the required score for passing the examination, and

procedures for replacement of a license;

(3) Requirements for dividing a commission with a broker in another state, and requirements for application for licensure by reciprocity and the practice of a nonresident licensee in the state;

(4) Procedures for application to provide classroom instruction or correspondence work for prelicensing education, qualifications of the instructors and facilities, and procedures for approving classroom instruction and correspondence work and for withdrawing the approval;

(5) Requirements for a real estate auction~~, use of unlicensed persons to call or take bids~~, and the requirements, duties and responsibilities of an auctioneer;

(6) Requirements for mortgage brokers, including ~~areas such as~~ trust accounts, record-keeping, written contracts, full disclosure, and restrictions on chargeable costs and expenses;

(7) Requirements for continuing education, including procedures for granting a certificate of accreditation; notification of a material change in an approved course offering; suspension, revocation and denial of course approval; notice to students regarding the course and opportunity for comment; auditing; certificates of attendance; preregistration; and limits on correspondence courses;

(8) Requirements for property managers, including ~~areas such as~~ trust accounts, auditing, contracts, disclosure, disciplinary matters, financial obligations and records, and property management accounting; and

(9) Requirements for establishing and maintaining teams and the requirements, duties, and responsibilities of team leaders.

Signed February 27, 2023

Chapter 139

(House Bill 1183)

An Act to authorize the state's participation in the interstate compact on occupational therapy licensure.

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

Section 1. That a NEW SECTION be added:

The State of South Dakota is hereby authorized to participate in the interstate compact on occupational therapy licensure, as set forth in this chapter.

Section 2. That a NEW SECTION be added:

The purpose of the interstate compact on occupational therapy licensure is to facilitate the interstate practice of occupational therapy, with the goal of improving public access to occupational therapy services. The practice of occupational therapy occurs in the state where the patient or client is located, at the time of the encounter. The compact preserves the authority of states to protect public health and safety through the current system of state licensure.

The compact is designed to achieve the following objectives:

A. Increase public access to occupational therapy services by providing for the mutual recognition of other member state licenses;

B. Enhance the ability of states to protect the public's health and safety;

C. Encourage the cooperation of member states in regulating multi-state occupational therapy practice;

D. Support spouses of relocating military members;

E. Enhance the exchange of licensure, investigative, and disciplinary information between member states;

F. Allow a remote state to hold a provider of services with a compact privilege in that state accountable to that state's practice standards; and

G. Facilitate the use of telehealth technology for the purpose of increasing access to occupational therapy services.

Section 3. That a NEW SECTION be added:

As used in this compact:

A. "Active duty military" means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders, pursuant to 10 U.S.C. chapter 1209 and 10 U.S.C. chapter 1211;

B. "Adverse action" means any administrative, civil, equitable, or criminal action permitted by a state's laws, which is imposed by a licensing board or other authority against an occupational therapist or an occupational therapy assistant, including actions against an individual's license or compact privilege such as censure, revocation, suspension, probation, monitoring of the licensee, or restriction on the licensee's practice;

C. "Alternative program" means a non-disciplinary monitoring process approved by an occupational therapy licensing board;

D. "Compact privilege" means the authorization, which is equivalent to a license, granted by a remote state to allow a licensee from another member state to practice as an occupational therapist or practice as an occupational therapy assistant in the remote state under its laws and rules. The practice of occupational therapy occurs in the member state where the patient or client is located at the time of the patient or client encounter;

E. "Continuing competence education" means a requirement, as a condition of license renewal, to provide evidence of participation in, and completion of, educational and professional activities relevant to a practice or area of work;

F. "Current significant investigative information" means investigative information that a licensing board, after an inquiry or investigation that includes notification and an opportunity for the occupational therapist or occupational therapy assistant to respond, if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction;

G. "Data system" means a repository of information about licensees, including license status, investigative information, compact privileges, and adverse actions;

H. "Encumbered license" means a license in which an adverse action restricts the practice of occupational therapy by the licensee or an adverse action has been reported to the national practitioners data bank;

I. "Executive committee" means a group of directors elected or appointed to act on behalf of, and within the powers granted to them by, the commission;

J. "Home state" means the member state that is the licensee's primary state of residence;

K. "Impaired practitioner" means individuals whose professional practice is adversely affected by substance abuse, addiction, or other health-related conditions;

L. "Investigative information" means information, records, and documents received or generated by an occupational therapy licensing board pursuant to an investigation;

M. "Jurisprudence requirement" means the assessment of an individual's knowledge of the laws and rules governing the practice of occupational therapy in a state;

N. "Licensee" means an individual who currently holds an authorization from the state to practice as an occupational therapist or as an occupational therapy assistant;

O. "Member state" means a state that has enacted the compact;

P. "Occupational therapist" means an individual who is licensed by a state to practice occupational therapy;

Q. "Occupational therapy" means the care and services provided by an occupational therapist or an occupational therapy assistant, as set forth in the member state's statutes and in rules promulgated by the member state;

R. "Occupational therapy assistant" means an individual who is licensed by a state to assist in the practice of occupational therapy;

S. "Occupational therapy compact commission" means the national administrative body and commission, whose membership consists of all states that have enacted the compact;

T. "Occupational therapy licensing board" means the agency of a state that is authorized to license and regulate occupational therapists and occupational therapy assistants;

U. "Primary state of residence" means the state, also known as the home state, in which an occupational therapist or occupational therapy assistant who is not active duty military declares a primary residence for legal purposes as verified by a driver's license, a federal income tax return, a lease, a deed, a mortgage, voter registration, or other verifying documentation as further defined by commission rules;

V. "Remote state" means a member state, other than the home state, in which a licensee is exercising or seeking to exercise the compact privilege;

W. "Rule" means a regulation promulgated by the commission that has the force of law;

X. "Single-state license" means an occupational therapist or occupational therapy assistant license issued by a member state that authorizes practice only within the issuing state and does not include a compact

privilege in any other member state;

Y. "State" means any state, commonwealth, district, or territory of the United States, which regulates the practice of occupational therapy; and

Z. "Telehealth" means the application of telecommunication technology to deliver occupational therapy services for assessment, intervention, and consultation.

Section 4. That a NEW SECTION be added:

A. To participate in the compact, a member state must:

1. License occupational therapists and occupational therapy assistants;

2. Participate fully in the commission's data system, including using the commission's unique identifier as defined in rules of the commission;

3. Have a mechanism in place for receiving and investigating complaints about licensees;

4. Notify the commission, in compliance with the terms of the compact and rules, of any adverse action or the availability of investigative information regarding a licensee;

5. Implement or utilize procedures for considering the criminal history records of applicants for an initial compact privilege. These procedures shall include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant's criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that state's criminal records;

(a) A member state shall, within a time frame established by the commission, require a criminal background check for a licensee seeking or applying for a compact privilege, whose primary state of residence is that member state, by receiving the results of the Federal Bureau of Investigation criminal record search, and shall use the results in making licensure decisions; and

(b) Communication between a member state, the commission, and among member states, regarding the verification of eligibility for licensure through the compact, may not include any information received from the Federal Bureau of Investigation relating to a federal criminal records check performed by a member state under Public Law 92-544;

6. Comply with the rules of the commission;

7. Utilize only a recognized national examination as a requirement for licensure pursuant to the rules of the commission; and

8. Have continuing education requirements as a condition for license renewal.

B. A member state shall grant the compact privilege to a licensee holding a valid, unencumbered license in another member state, in accordance with the terms of the compact and rules.

C. A member state may charge a fee for granting a compact privilege.

D. A member state shall provide for the state's delegate to attend all occupational therapy compact commission meetings.

E. Individuals not residing in a member state may apply for a member state's single-state license, as provided under the laws of each member state. The single-state license granted to these individuals may not be recognized as granting the compact privilege in any other member state.

F. Nothing in this compact affects the requirements established by a member state for the issuance of a single-state license.

Section 5. That a NEW SECTION be added:

A. To exercise the compact privilege under the compact, the licensee must:

1. Hold a license in the home state;

2. Have a United States social security number or national practitioner identification number;

3. Have no encumbrance on any state license;

4. Be eligible for a compact privilege in any member state, in accordance with this section;

5. Have paid all fines and completed all requirements resulting from any adverse action against any license or compact privilege, and two years must have elapsed from the date of the completion;

6. Notify the commission that the licensee is seeking the compact privilege within a remote state;

7. Pay any applicable fees, including any state fee, for the compact privilege;

8. Complete a criminal background check in accordance with section 4 of this Act, provided the licensee is responsible for the payment of any fee associated with the completion of a criminal background check;

9. Meet any jurisprudence requirements established by the remote state in which the licensee is seeking a compact privilege; and

10. Report to the commission any adverse action taken by a non-member state within thirty days from the date the adverse action is taken.

B. The compact privilege is valid until the expiration date of the home state license. The licensee must comply with the requirements of this section to maintain the compact privilege in the remote state.

C. A licensee providing occupational therapy in a remote state under the compact privilege shall function within the laws and rules of the remote state.

D. An occupational therapy assistant practicing in a remote state must be supervised by an occupational therapist licensed or holding a compact privilege in that remote state.

E. A licensee providing occupational therapy in a remote state is subject to that state's regulatory authority. A remote state may, in accordance with due process and that state's laws, remove a licensee's compact privilege

in the remote state for a specific period of time, impose fines, and take any other necessary action to protect the health and safety of its residents. The licensee may be ineligible for a compact privilege in any state until the specific time for removal has passed and all fines are paid.

F. If a home state license is encumbered, the licensee loses the compact privilege in any remote state until the home state license is no longer encumbered and two years have elapsed from the date on which the home state license is no longer encumbered.

G. Once an encumbered license in the home state is restored to good standing, the licensee must meet the requirements of this section to obtain a compact privilege in any remote state.

H. If a licensee's compact privilege in any remote state is removed, the individual may lose the compact privilege in any other remote state until:

1. The specific period of time for which the compact privilege was removed has ended;

2. All fines have been paid and all conditions have been met;

3. Two years have elapsed from the date of completing requirements set forth in this subdivision; and

4. The compact privileges are reinstated by the commission, and the compact data system is updated to reflect the reinstatement.

I. If a licensee's compact privilege in any remote state is removed due to an erroneous charge, privileges must be restored through the compact data system.

J. Once the requirements of subdivision H have been met, the licensee must meet the requirements of subdivision A to obtain a compact privilege in a remote state.

Section 6. That a NEW SECTION be added:

A. An occupational therapist or occupational therapy assistant may hold a home state license, which allows for compact privileges in member states, in only one member state at a time.

B. If an occupational therapist or occupational therapy assistant changes the primary state of residence by moving between two member states:

1. The occupational therapist or occupational therapy assistant shall file an application for obtaining a new home state license by virtue of a compact privilege, pay all applicable fees, and notify the current and new home state in accordance with applicable rules adopted by the commission.

2. Upon receipt of an application for obtaining a new home state license by virtue of compact privilege, the new home state shall verify that the occupational therapist or occupational therapy assistant meets the criteria outlined in section 5 of this Act via the data system, without need for primary source verification, except for:

a. A Federal Bureau of Investigation fingerprint-based criminal background check, if not previously performed or updated pursuant to rules adopted by the commission, in accordance with Public Law 92-544;

b. Any other criminal background check, as required by the new home state; and

c. Submission of any jurisprudence requirements of the new home state.

3. The former home state shall convert the former home state license into a compact privilege once the new home state has activated the new home state license in accordance with rules adopted by the commission.

4. Notwithstanding any other provision of this compact, if the occupational therapist or occupational therapy assistant cannot meet the criteria in section 5 of this Act, the new home state shall apply its requirements for issuing a new single-state license.

5. The occupational therapist or the occupational therapy assistant shall pay all applicable fees to the new home state in order to be issued a new home state license.

C. If an occupational therapist or occupational therapy assistant changes the primary state of residence by moving from a member state to a non-member state, or from a non-member state to a member state, the state criteria applies for issuance of a single-state license in the new state.

D. Nothing in this compact interferes with a licensee's ability to hold a single-state license in multiple states, provided, for purposes of this compact, a licensee may have only one home state license.

E. Nothing in this compact affects the requirements established by a member state for the issuance of a single-state license.

Section 7. That a NEW SECTION be added:

Active duty military personnel, or the spouse of such a service member, shall designate a home state in which the individual has a current license in good standing. The individual may retain the home state designation during the period the service member is on active duty. Subsequent to designating a home state, the individual may change the home state only through application for licensure in the new state or through the process described in section 6 of this Act.

Section 8. That a NEW SECTION be added:

A. A home state has exclusive power to take adverse action against an occupational therapist's or an occupational therapy assistant's license issued by the home state.

B. A remote state has the authority, in accordance with existing state due process law, to:

1. Take adverse action against an occupational therapist's or occupational therapy assistant's compact privilege within that member state.

2. Issue subpoenas for hearings and investigations that require the attendance and testimony of witnesses, as well as the production of evidence. Subpoenas issued by a licensing board in a member state for the attendance and testimony of witnesses or the production of evidence from another member state must be enforced in the latter state by a court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing

authority shall pay any witness fees, travel expenses, mileage and other fees required by the state in which the witnesses or evidence are located.

C. For purposes of taking adverse action, the home state shall give the same priority and effect to reported conduct received from a member state as it would if the conduct had occurred within the home state. In so doing, the home state shall apply its own state laws to determine appropriate action.

D. The home state shall complete any pending investigations of an occupational therapist or occupational therapy assistant who changes the primary state of residence during the course of the investigations. The home state, in which the investigations were initiated, may take appropriate action and shall promptly report the conclusions of the investigations to the data system. The data system administrator shall promptly notify the new home state of any adverse action.

E. A member state, if otherwise permitted by state law, may recover from the affected occupational therapist or occupational therapy assistant the cost of the investigations and disposition of cases resulting from any adverse action taken against that occupational therapist or occupational therapy assistant.

F. A member state may take adverse action based on the factual findings of the remote state, provided that the member state follows its own procedures for taking the adverse action.

G. In addition to any authority granted to a member state by its respective state laws and rules, a member state may participate with other member states in joint investigations of licensees. A member state shall share any investigative, litigation, or compliance material in furtherance of any joint or individual investigation initiated under the compact.

H. If an adverse action is taken by the home state against an occupational therapist's or occupational therapy assistant's license, the occupational therapist's or occupational therapy assistant's compact privilege, in all other member states, must be deactivated until all encumbrances have been removed from the state license. All home state disciplinary orders that impose adverse action against an occupational therapist's or occupational therapy assistant's license must include a statement that the occupational therapist's or occupational therapy assistant's compact privilege is deactivated in all member states during the pendency of the order.

I. If a member state takes adverse action, it shall promptly notify the administrator of the data system. The administrator of the data system shall promptly notify the home state of any adverse action by a remote state.

J. Nothing in this compact overrides a member state's decision that participation in an alternative program may be used in lieu of adverse action.

Section 9. That a NEW SECTION be added:

A. The compact member states hereby create and establish a joint public agency known as the occupational therapy compact commission.

1. The commission is an instrumentality of the compact states.

2. Venue is proper and judicial proceedings by or against the commission may only be brought in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

3. Nothing in this compact constitutes a waiver of sovereign immunity.

B. The following terms and conditions are also applicable:

1. Each member state has and is limited to one delegate selected by that member state's licensing board;

2. The delegate must be:

a. A current member of the licensing board, who is an occupational therapist, occupational therapy assistant, or public member; or

b. An administrator of the licensing board;

3. A delegate may be removed or suspended from office, as provided by the law of the state from which the delegate is appointed;

4. The member state board shall fill any vacancy occurring in the commission within ninety days;

5. Each delegate is entitled to one vote with regard to the promulgation of rules and the creation of bylaws and:

(a) May participate in the business and affairs of the commission;

(b) May vote in person or by such other means as provided in the bylaws; and

(c) May participate in meetings, by telephone or other means of communication, if permitted in the bylaws;

6. The commission shall meet at least once during each calendar year. Additional meetings may be held as set forth in the bylaws; and

7. The commission shall by rule establish a term of office for delegates.

C. The commission has the following powers and duties:

1. To establish a code of ethics for the commission;

2. To establish the fiscal year of the commission;

3. To establish bylaws;

4. To maintain its financial records in accordance with the bylaws;

5. To meet and take such actions as are consistent with the provisions of this compact and the bylaws;

6. To promulgate uniform rules to facilitate and coordinate implementation and administration of this compact, provided the rules shall have the force and effect of law and are binding on all member states;

7. To bring and prosecute legal proceedings or actions in the name of the commission, provided that the standing of any state occupational therapy licensing board to sue or be sued under applicable law is not affected;

8. To purchase and maintain insurance and bonds;

9. To borrow, accept, or contract for services of personnel, including employees of a member state;

10. To hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals authority to carry out the purposes of the compact, and establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

11. To accept donations and grants of money, equipment, supplies, materials and services, and receive, utilize and dispose of the same, provided that the commission shall avoid any appearance of impropriety and conflict of interest;

12. Lease, purchase, accept gifts or donations of, or otherwise own, hold, improve or use, any property, real, personal or mixed, provided that the commission shall avoid any appearance of impropriety;

13. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed;

14. Establish a budget and make expenditures;

15. Borrow money;

16. Appoint committees, including standing committees composed of members, state regulators, state legislators or their representatives, and consumer representatives, and such other interested individuals as may be designated in this compact and the bylaws;

17. Provide and receive information from, and cooperate with, law enforcement agencies;

18. Establish and elect an executive committee; and

19. Perform such other functions as necessary or appropriate to achieve the purposes of this compact, consistent with the state regulation of occupational therapy licensure and practice.

D. The executive committee may act on behalf of the commission according to the terms of this compact.

1. The executive committee is composed of:

a. Seven voting members who are elected by the commission from the membership of the commission;

b. One ex-officio nonvoting member from a recognized national occupational therapy professional association; and

c. One ex-officio nonvoting member from a recognized national occupational therapy certification organization.

2. The ex-officio members must be selected by their respective organizations.

3. The commission may remove any member of the executive committee as provided in the bylaws.

4. The executive committee shall meet at least annually.

5. The executive committee has the following duties and responsibilities:

a. To recommend to the entire commission changes to the rules or bylaws, changes to this chapter, fees paid by compact member states such as annual dues, and any commission compact fee charged to licensees for the compact privilege;

b. To ensure compact administration services are appropriately provided, by contract or otherwise;

c. To prepare and recommend the budget;

d. To maintain financial records on behalf of the commission;

e. To monitor compact compliance by member states and provide compliance reports to the commission;

f. To establish additional committees as necessary; and

g. To perform other duties as provided in the rules or bylaws.

E. The following terms and conditions are also applicable to meetings of the commission:

1. Each meeting is open to the public, and public notice of the meetings must be given in the same manner as required under the rulemaking provisions in section 11 of this Act;

2. The commission, the executive committee, or another committee of the commission may convene in a closed, non-public meeting, if there is the need to discuss:

a. The non-compliance of a member state with its obligations under the compact;

b. The employment, compensation, discipline or other matters, practices, or procedures, related to specific employees, or other matters related to the commission's internal personnel practices and procedures;

c. Current, threatened, or reasonably anticipated litigation;

d. The negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;

e. Accusing any person of a crime or formally censuring any person;

f. The disclosure of trade secrets or commercial or financial information that is privileged or confidential;

g. The disclosure of personal information, if disclosure would constitute an unwarranted invasion of personal privacy;

h. The disclosure of investigative records compiled for law

enforcement purposes;

i. The disclosure of information related to any investigative reports prepared by or on behalf of or for use of the commission or other committee responsible for investigating or determining compliance issues pursuant to the compact; or

j. Any matter exempt from disclosure by federal or member state statute;

3. If a meeting, or portion of a meeting, is closed pursuant to this section, the commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision; and

4. The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed, provided:

(a) All documents considered in connection with an action must be identified in the minutes; and

(b) All minutes and documents of a closed meeting must remain under seal, subject to release by a majority vote of the commission or an order of a court.

F. The following terms and conditions are also applicable:

1. The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities;

2. The commission may accept any and all appropriate revenue sources, donations, and grants of money, equipment, supplies, materials, and services;

3. The commission may levy on and collect an annual assessment from each member state or impose fees on other parties to cover the cost of the operations and activities of the commission and its staff, which must be in an amount sufficient to cover its annual budget, as approved by the commission each year, for which revenue is not provided by other sources. The aggregate annual assessment amount must be allocated based upon a formula to be determined by the commission. The commission shall promulgate a rule that is binding upon all member states;

4. The commission may not incur obligations of any kind prior to securing the funds adequate to meet the same, nor may the commission pledge the credit of any member state, except by and with the authority of the member state; and

5. The commission shall keep accurate accounts of all receipts and disbursements, provided:

(a) The receipts and disbursements of the commission are subject to the audit and accounting procedures established under the bylaws:

(b) All receipts and disbursements of funds handled by the commission must be audited yearly, by a certified or licensed public accountant: and

(c) The report of the audit must be included in and become part of the annual report of the commission.

G. The following terms and conditions are also applicable:

1. The members, officers, executive director, employees, and representatives of the commission are immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities; provided that nothing in this paragraph shall be construed to protect any such person from suit and/or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person;

2. The commission shall defend any member, officer, executive director, employee, or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct; and

3. The commission shall indemnify and hold harmless any member, officer, executive director, employee, or representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.

Section 10. That a NEW SECTION be added:

A. The commission shall provide for the development, maintenance, and utilization of a coordinated database and reporting system containing licensure, adverse action, and investigative information on all licensed individuals in member states.

B. A member state shall submit to the data system a uniform data set on all individuals to whom this compact is applicable, utilizing a unique identifier as required by the rules of the commission, including:

1. Identifying information;

2. Licensure data;

3. Adverse actions against a license or compact privilege;

4. Non-confidential information related to alternative program participation;

5. Any denial of application for licensure, and the reason for the denial;

6. Other information that may facilitate the administration of this compact, as determined by the rules of the commission; and

7. Current significant investigative information.

C. Current significant investigative information and other investigative information pertaining to a licensee in any member state is available only to other member states.

D. The commission shall promptly notify all member states of any adverse action taken against a licensee or an individual applying for a license. Adverse action information pertaining to a licensee in any member state is available to any other member state.

E. A member state contributing information to the data system may designate information that may not be shared with the public without the express permission of the contributing state.

F. Any information submitted to the data system that is subsequently required to be expunged by the laws of the member state contributing the information must be removed from the data system.

Section 11. That a NEW SECTION be added:

A. The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this section and the rules adopted by the commission. Rules and amendments become binding as of the date specified in each rule or amendment.

B. The commission shall promulgate rules to effectively and efficiently achieve the purposes of the compact. If the commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of the compact, or the powers granted under the compact, such an action by the commission is invalid and has no force and effect.

C. If a majority of the member state legislatures rejects a rule, by enactment of a statute or resolution, in the same manner used to adopt the compact, within four years of the date the rule is adopted, the rule has no further force and effect in any member state.

D. A rule or an amendment to a rule must be adopted at a regular or special meeting of the commission.

E. Prior to the promulgation and adoption of a final rule by the commission, and at least thirty days in advance of the meeting at which the rule will be considered and voted upon, the commission shall file a notice of proposed rulemaking:

1. On the commission's website or on another publicly accessible platform; and

2. On the website of each member state's occupational therapy licensing board, on another publicly accessible platform, or in the publication that each state uses to publish proposed rules.

F. The notice of proposed rulemaking must include:

1. The proposed time, date, and location of the meeting at which the rule will be considered and voted upon;

2. The text of the proposed rule or amendment and the reason for the proposed rule;

3. A request for comments on the proposed rule; and

4. The manner in which interested individuals may submit notice to the commission of their intention to attend the public hearing and offer written comments.

G. Prior to adoption of a proposed rule, the commission shall allow persons to submit written data, facts, opinions, and arguments, which must be made available to the public.

H. The commission shall grant an opportunity for a public hearing before it adopts a rule or amendment, if a hearing is requested by:

1. At least twenty-five persons;

2. A state or federal governmental subdivision or agency; or

3. An association or organization having at least twenty-five members.

I. If a hearing is held on the proposed rule or amendment, the commission shall publish the place, time, and date of the scheduled public hearing. If the hearing is held via electronic means, the commission shall publish the mechanism for access to the electronic hearing.

1. Any person wishing to be heard at the hearing shall notify the executive director of the commission or another designated member, in writing, of the desire to appear and testify at the hearing, not less than five business days before the scheduled date of the hearing.

2. Hearings must be conducted in a manner that provides each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

3. All hearings must be recorded. A copy of the recording must be made available upon request.

4. Nothing in this section may be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the commission at hearings required by this section.

J. Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the commission shall consider all written and oral comments received.

K. If no written notice of intent to attend the public hearing by interested parties is received, the commission may proceed with promulgation of the proposed rule, without a public hearing.

L. The commission shall, by majority vote of all members, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

M. Upon determination that an emergency exists, the commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rulemaking procedures set forth in the compact and in this section must be retroactively applied

to the rule as soon as reasonably possible, but no later than ninety days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

1. Meet an imminent threat to public health, safety, or welfare;

2. Prevent a loss of commission or member state funds;

3. Meet a deadline for the promulgation of an administrative rule that is established by federal law or regulation; or

4. Protect public health and safety.

N. The commission or an authorized committee of the commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in formatting, errors in consistency, or grammatical errors. Public notice of any revisions must be posted on the website of the commission. The revision is subject to challenge by any person for a period of thirty days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge must be made in writing and delivered to the chair of the commission, prior to the end of the notice period. If no challenge is made, the revision takes effect without further action. If the revision is challenged, the revision may not take effect without the approval of the commission.

Section 12. That a NEW SECTION be added:

A. The following terms and conditions are also applicable:

1. The executive, legislative, and judicial branches of state government in each member state shall enforce this compact and take all actions necessary and appropriate to effectuate the compact's purposes and intent, provided, this compact and the rules promulgated hereunder have standing as statutory law;

2. All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of the compact, which may affect the powers, responsibilities, or actions of the commission; and

3. The commission is entitled to receive service of process in any such proceeding, and has standing to intervene in such a proceeding for all purposes, provided a failure to provide service of process to the commission renders a judgment or order void as to the commission, this compact, or promulgated rules.

B. The following terms and conditions are also applicable:

1. If the commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact or the promulgated rules, the commission shall:

a. Provide written notice to the defaulting state and other member states regarding the nature of the default, the proposed means of curing the default, and any other action to be taken by the commission; and

b. Provide remedial training and specific technical assistance regarding the default;

2. If a state in default fails to cure the default, the defaulting state may be terminated from the compact upon an affirmative vote of

a majority of the member states, and all rights, privileges and benefits conferred by this compact may be terminated on the effective date of termination, provided a cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default;

3. Termination of membership in the compact may be imposed only after all other means of securing compliance have been exhausted;

4. Notice of intent to suspend or terminate must be given by the commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states;

5. A state that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination;

6. The commission may not bear any costs related to a state that is found to be in default or that has been terminated from the compact, unless agreed upon in writing between the commission and the defaulting state; and

7. The defaulting state may appeal the action of the commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the commission has its principal offices, provided the prevailing member must be awarded all costs of litigation, including reasonable attorney's fees.

C. The following terms and conditions are also applicable:

1. Upon request by a member state, the commission shall attempt to resolve disputes related to the compact, which arise among member states and between member and non-member states; and

2. The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

D. The following terms and conditions are also applicable:

1. The commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact;

2. By majority vote, the commission may initiate legal action in the United States District Court for the District of Columbia or the federal district where the commission has its principal offices against a member state in default to enforce compliance with the provisions of the compact and its promulgated rules and bylaws, provided the relief sought may include both injunctive relief and damages;

3. If judicial enforcement is necessary, the prevailing member must be awarded all costs of litigation, including reasonable attorney's fees; and

4. The remedies set forth in this section are not the exclusive remedies of the commission and the commission may pursue other remedies available under federal or state law.

Section 13. That a NEW SECTION be added:

A. The compact shall take effect on the date that the compact is enacted in the tenth member state. The provisions, which become effective at that time, are limited to the powers granted to the commission relating to assembly and the promulgation of rules. Thereafter, the commission shall meet and exercise rulemaking powers necessary to the implementation and administration of the compact.

B. Any state that joins the compact after the initial adoption of the rules is subject to the rules as they exist on the date that the compact becomes law in that state. Any rule that was previously adopted by the commission has the full force and effect of law on the day the compact becomes law in that state.

C. A member state may withdraw from this compact by repealing the enacting statute.

1. A member state's withdrawal is not effective until six months after enactment of the repealing statute.

2. Withdrawal does not affect the continuing requirement of the withdrawing state's occupational therapy licensing board to comply with the investigative and adverse action reporting requirements of this compact prior to the effective date of withdrawal.

D. Nothing contained in this compact invalidates or prevents any occupational therapy licensure agreement or other cooperative arrangement between a member state and a non-member state, provided it does not conflict with this compact.

E. This compact may be amended by the member states. No amendment to this compact may become effective and binding upon any member state until it is enacted into law by all the member states.

Section 14. That a NEW SECTION be added:

This compact must be liberally construed so as to effectuate its purposes. The provisions of this compact are severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any member state or of the United States, or the applicability to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability of this compact to any government, agency, person, or circumstance is not affected. If this compact is held to be contrary to the constitution of any member state, the compact must remain in full force and effect as to the remaining member states and in full force and effect as to the member state affected as to all severable matters.

Section 15. That a NEW SECTION be added:

A. A licensee providing occupational therapy in a remote state under the compact privilege shall function within the laws and rules of the remote state.

B. Nothing in this compact prevents the enforcement of any other law of a member state, which is not inconsistent with the compact.

C. Any laws in a member state that are in conflict with this compact are superseded to the extent of the conflict.

D. Any lawful actions of the commission, including all rules and bylaws

promulgated by the commission, are binding upon the member states.

E. All agreements between the commission and the member states are binding in accordance with their terms.

F. If any provision of this compact exceeds the constitutional limits imposed on the legislature of any member state, the provision is ineffective to the extent of the conflict with the constitutional provision in question in that member state.

Signed March 17, 2023

Chapter 140

(Senate Bill 8)

An Act to revise provisions relating to addiction and prevention services professionals.

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

Section 1. That § 36-34-13 be AMENDED:

36-34-13. The board may promulgate rules, pursuant to chapter 1-26, to provide fees for all services and charges authorized by this chapter. The fees may not exceed the following maximums:

(1) ~~Application materials or portfolio reviews, twenty-five dollars;~~

~~(2)~~ Certified addiction counselor, certified prevention specialist, or licensed addiction counselor application and examination fee, ~~two~~ three hundred ~~fifty~~ dollars;

~~(3)~~(2) Certified addiction counselor, certified prevention specialist, or licensed addiction counselor retest fee, two hundred fifty dollars;

~~(4)~~(3) Certified addiction counselor, certified prevention specialist, or licensed addiction counselor renewal fee, ~~two~~ four hundred dollars;

~~(5)~~(4) Certified addiction counselor, certified prevention specialist, or licensed addiction counselor reinstatement fee, ~~one~~ two hundred ~~fifty~~ dollars;

~~(6)~~(5) Status upgrade fee, one hundred fifty dollars;

~~(7) Addiction counselor trainee, prevention specialist trainee, certified addiction counselor, certified prevention specialist, or licensed addiction counselor replacement or duplicate certificate, fifteen dollars;~~

~~(8) Certified addiction counselor, certified prevention specialist, or licensed addiction counselor replacement identification card, five dollars;~~

~~(9)~~(6) Addiction counselor trainee or prevention specialist trainee recognition fee, one hundred fifty dollars;

~~(10)~~(7) Addiction counselor trainee or prevention specialist trainee renewal fee, one hundred fifty dollars;

~~(11)~~(8) Addiction counselor trainee or prevention specialist trainee reinstatement fee, one hundred fifty dollars;

~~(12)~~(9) International certificate fee, twenty dollars;

~~(13) Certified addiction counselor, certified prevention specialist, or licensed addiction counselor retirement status practitioner fee, one hundred dollars;~~

~~(14)~~(10) Dual credential renewal fee, ~~three~~ four hundred dollars;

~~(15) Examination cancellation or rescheduling fee, twenty-five dollars;~~

~~(16) Examination late cancellation or nonattendance fee, one hundred twenty-five dollars;~~

~~(17) Registration as a continuing education service provider, twenty-five dollars; and~~

~~(18) Mailing labels charge, one hundred dollars~~

(11) Inactive license or certificate fee, fifty dollars; and

(12) Temporary license or certificate fee, one hundred dollars.

Section 2. That § 36-34-13.2 be AMENDED:

36-34-13.2. Any applicant seeking recognition, certification, or licensure shall disclose to the board whether the applicant has been convicted of, plead guilty to, or plead no contest to any felony, to any crime involving or relating to the practice of counseling, or to any crime involving dishonesty or moral turpitude, in any state, federal, foreign jurisdiction, tribal, or military court. ~~Failure~~ An applicant's failure to disclose this information may result in denial, revocation, suspension, or refusal of recognition, certification, or licensure.

The board may grant a license to an applicant who has been convicted of or pled guilty to a felony, to any crime involving or relating to the practice of counseling, or to any crime involving dishonesty or moral turpitude if the board determines that the applicant does not constitute a risk to public safety.

Section 3. That § 36-34-13.3 be AMENDED:

36-34-13.3. ~~Any certificate or license issued by the board shall be renewed annually by payment of a fee to be set by the board in rules promulgated pursuant to chapter 1-26. The failure of a practitioner to renew the certificate or license by the last day of the practitioner's birth month each year constitutes a forfeiture of status. However, any person who has forfeited one's status may have it restored by requesting reinstatement and paying the reinstatement fee and the renewal fee within fifteen days of the forfeiture. Any person who fails to have the status restored within fifteen days shall take the examination as prescribed for an applicant to become certified or licensed and comply with all the provisions applicable to any applicant for certification or licensure~~The board may renew a certificate or license if the practitioner:

(1) Submits an application to the board for renewal before the expiration of the certificate or license;

(2) Pays the required renewal fee; and

(3) Provides proof of compliance with the continuing education requirements prescribed by the board.

If a practitioner fails to renew a certificate or license on or before November thirtieth in an odd-numbered year, the certificate or license is automatically suspended.

If a practitioner does not submit a renewal application before the expiration of the certificate or license, the board shall notify the holder that a

renewal application has not been received by the board and that the holder may not practice addiction counseling or prevention services. The board may renew the certificate or license if, within thirty days after the expiration date of the certificate or license, the holder submits a renewal application and provides proof of compliance with the continuing education requirements prescribed by the board.

Section 4. That chapter 36-34 be amended with a NEW SECTION:

If the board suspects that the physical or mental health of any applicant may jeopardize or endanger anyone who seeks assistance from the applicant, the board may require that the applicant be examined by a health care provider, approved by the board, who is licensed or authorized to practice pursuant to title 36. The board shall pay all costs of the examination.

The board may deny the application if, after a hearing held in accordance with chapter 1-26, the board finds by clear and convincing evidence that the applicant's physical or mental health may jeopardize or endanger anyone who seeks services from the applicant.

Section 5. That chapter 36-34 be amended with a NEW SECTION:

The board may place a certificate or license on inactive status at the request of a practitioner and upon payment of a fee prescribed by the board. An inactive certificate or license expires four years after the date of issuance. The board may reactivate the certificate or license if the practitioner:

(1) Pays the required renewal fee; and

(2) Provides proof to the board of having completed at least forty hours of continuing education during the two-year period immediately preceding the reactivation request.

If the practitioner does not reactivate the certificate or license before the date of expiration, all provisions applicable to an applicant for certification or licensure apply in order to restore the certificate or license to active status.

Any certificate or license on retired status as of July 1, 2023, expires on November 30, 2025, unless the practitioner meets the requirements for reactivation before November 30, 2025.

Section 6. That chapter 36-34 be amended with a NEW SECTION:

The board may reactivate an expired certificate or license within four years following the date of expiration, if the holder of the expired certificate or license:

(1) Pays any applicable renewal fees required for the period of expiration;

(2) Provides proof of any continuing education required for the period of expiration; and

(3) Provides proof of passing a national examination approved by the board after the date the certificate or license expired.

Section 7. That chapter 36-34 be amended with a NEW SECTION:

Any person who practices counseling through electronic means and provides addiction counseling or prevention services to a patient located in this state is engaged in the practice of addiction counseling or prevention services in this state, regardless of the person's physical location. Any person who provides

addiction counseling or prevention services through electronic means must comply with the provisions of this chapter and rules promulgated by the board under this chapter.

Section 8. That § 36-34-18 be AMENDED:

36-34-18. The board shall ~~receive complaints concerning a practitioner's professional practices. Each complaint received shall be logged by the secretary-treasurer, or the board's designee, recording the practitioner's name, name of the complaining party, date of the complaint, a brief statement of the complaint, and its ultimate disposition. The board shall investigate each alleged violation of this chapter pursuant to the procedures~~ process a complaint regarding a practitioner as set forth in chapter 36-1C. The board shall maintain a record of each complaint.

Notwithstanding any provision of chapter 36-1C, a member, agent, or appointee of the board may investigate a complaint to determine whether the practitioner committed the alleged violation. The investigator, if a member of the board, may dismiss the complaint if it appears to the member, in consultation with the board president, that the practitioner did not commit a violation. If the investigator is an agent or appointee of the board, only the board president may dismiss the complaint. If an investigator and a practitioner agree upon a disposition of a complaint, the disposition must be approved by the board.

~~All~ The board must conduct any disciplinary ~~proceedings held under the authority of this chapter must be conducted~~ proceeding in accordance with chapter 1-26. Any decision of the board entered in a contested proceeding may be appealed to the circuit court within thirty days. A certificate or license remains in effect during the pendency of an appeal, unless suspended under § 36-34-24.

Testimony or documentary evidence of any kind obtained by the board during the investigation of a complaint is not subject to discovery or disclosure under chapter 15-6, or any other provision of law, and is not admissible as evidence in any legal proceeding, unless the complaint becomes a contested case under chapter 1-26. No person who has participated in the investigation of a complaint on behalf of the board may testify as an expert witness or be compelled to testify for any party in any civil action, if the subject matter of the investigated complaint is a basis for the civil action.

Section 9. That § 36-34-19 be REPEALED:

~~The decision of the board to cancel, suspend, or revoke a certification or licensure or to reissue a cancelled, suspended, or revoked certification or licensure requires a majority vote of all the board members.~~

Section 10. That § 36-34-20 be REPEALED:

~~If the board determines that any complaint is frivolous or clearly unfounded in fact, the board may dismiss the complaint and, by a separate and unanimous vote of the board, may expunge the complaint from the record of the practitioner.~~

Signed March 9, 2023

Chapter 141

(House Bill 1014)

An Act to update provisions related to the licensure of speech-language pathologists and speech-language pathology assistants.

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

Section 1. That § 36-37-1 be AMENDED:

36-37-1. Terms used in this chapter mean:

(1) "Board," the Board of Examiners for Speech-Language Pathology;

(2) ~~"Department," the Department of Health;~~

~~(3) "Endoscopy," an imaging procedure included within the scope of practice for speech-language pathologists in which a speech-language pathologist uses a flexible/nasal endoscopy, rigid/oral endoscopy, or stroboscopy for the purpose of evaluating and treating disorders of speech, voice, resonance, and swallowing function;~~

~~(4) "Mentorship," the direct on-site supervision and monitoring of a speech-language pathologist with a provisional license by a licensed speech-language pathologist;~~

~~(5)~~ "Provisional license," the license issued to an applicant who is practicing speech-language pathology while completing the supervised postgraduate professional experience following completion of master's degree in speech-language pathology;

~~(6)~~(3) "Speech-language pathologist," any person who engages in the practice of speech-language pathology and who ~~meets the qualifications set forth in~~ is licensed in accordance with this chapter;

~~(7)~~(4) "Speech-language pathology assistant," any person who assists in the practice of speech-language pathology and who meets the qualifications set forth in this chapter; and

~~(8) "Telepractice," "telespeech," "telespeech language pathology," or "telehealth," whether used separately or together. Telepractice service means the application of telecommunication technology to deliver speech-language pathology at a distance for assessment, intervention, or consultation~~

(5) "Supervision," the direct, on-site monitoring by a speech-language pathologist of a speech-language pathology assistant or a speech-language pathologist with a provisional license.

Section 2. That § 36-37-2 be AMENDED:

36-37-2. For the purposes of this chapter, the practice of speech-language pathology is the application of principles, methods, and procedures related to the development, disorders, and effectiveness of human communication and related functions including providing prevention, screening, consultation, assessment~~/~~, evaluation, diagnosis, treatment~~/~~, intervention~~/~~ management, counseling, collaboration, and referral services for disorders of speech, language, feeding, and swallowing, and for cognitive aspects of communication. The practice of speech-language pathology ~~also~~ includes ~~establishing~~:

(1) Establishing augmentative and alternative communication techniques and strategies, including developing, selecting, and prescribing of ~~such systems~~ techniques, strategies, and devices, excluding the dispensing and fitting of hearing aids pursuant to chapter 36-24~~, providing~~;

(2) Providing services to individuals with hearing loss and their families~~, screening persons~~;

(3) Screening individuals for hearing loss or middle ear pathology using conventional pure-tone air conduction methods, otoacoustic emissions screening, or screening typanometry~~, using~~;

(4) Using instrumentation to observe, collect data, and measure parameters of communication and swallowing~~, selecting,~~;

(5) Selecting, fitting, and establishing effective use of prosthetic or adaptive devices for communication, swallowing, or other upper aerodigestive functions~~,~~; and ~~providing~~

(6) Providing services to modify or enhance communication performance.

Section 3. That § 36-37-4 be AMENDED:

36-37-4. Any person who ~~holds any~~ possessed a speech-language pathologist certificate from the South Dakota Department of Education as of July 1, 2012, and does not otherwise meet the qualifications set forth in this chapter, may apply to the board for ~~and~~ a limited license to practice as a speech-language pathologist. The board shall ~~be granted~~ renew a limited license ~~to practice as a speech-language pathologist as long as~~ if:

(1) The person's initial application ~~is made~~ for a limited license was submitted no later than July 1, 2014; and

(2) The ~~applicant complies with the provisions of subdivisions 36-37-14(1), (2), and (7)~~ person:

(a) Submits an application for renewal on a form prescribed by the board;

(b) Pays the application fee established by the board, in accordance with § 37-36-12; and

(c) Has not committed an act for which disciplinary action is justified.

The board shall promulgate rules, pursuant to chapter 1-26, to prescribe the limits of the license ~~shall be determined by the board in rules promulgated pursuant to chapter 1-26~~ authorized by this section.

Section 4. That § 36-37-6 be AMENDED:

36-37-6. Any person who is licensed as a speech-language pathologist in ~~South Dakota~~ this state may perform assessment, treatment, and procedures related to speech, voice, resonance, and swallowing function using nonmedical endoscopy as long as the person has received training and is competent to perform these procedures. A licensed speech-language pathologist shall have protocols in place for emergency medical backup when performing procedures using an endoscope.

For the purposes of this section, the term, endoscopy, means an imaging procedure within the scope of practice for speech-language pathologists in which a speech-language pathologist uses a flexible nasal endoscopy, rigid oral endoscopy, or stroboscopy for the purpose of evaluating and treating disorders of speech, voice, resonance, or swallowing function.

Section 5. That § 36-37-7 be AMENDED:

36-37-7. Any person who is licensed ~~as a speech-language pathologist in South Dakota~~ pursuant to this chapter may provide speech-language pathology services via ~~telepractice~~ telehealth. Services delivered via ~~telespeech shall~~ telehealth must be equivalent to the quality of services delivered face-to-face.

For the purposes of this section, the term, telehealth, has the meaning provided in § 34-52-1.

Section 6. That § 36-37-8 be AMENDED:

36-37-8. ~~There is hereby created~~The Governor shall appoint a five-member Board of Examiners for Speech-Language Pathology under the supervision of the Department of Health. ~~The board shall consist of five members appointed by the Governor who are residents of this state. Four of the members shall be~~ The board must consist of:

(1) Four speech-language pathologists who ~~are~~:

(a) Are residents of this state;

(b) Are currently licensed in good standing and practicing speech-language pathology~~, who have~~; and

(c) Have at least five years of experience practicing speech-language pathology~~,~~; and ~~who hold a license to practice speech-language pathology in this state, except for the first speech-language pathologists appointed who need only meet the eligibility requirements for licensure~~

(2) One representative of the public who is:

(a) A resident of this state; and

(b) Not associated with, or financially interested in, the practice or business of speech-language pathology.

At least one ~~of the members who is~~ member must be a speech--language pathologist ~~shall be~~ employed in a school setting, and at least one ~~of the members who is~~ member must be a speech-language pathologist ~~shall be~~ employed in a health care setting. ~~One of the members shall be a representative of the public who is not associated with or financially interested in the practice or business of speech-language pathology.~~

The board shall annually elect from its members a president and vice-president.

Section 7. That § 36-37-9 be AMENDED:

36-37-9. Each appointment to the board ~~shall be~~ is for a period of three years ~~except for the initial appointments which shall be for staggered terms~~. Each member shall serve until the expiration of the term for which the member has been appointed or until the member's successor is appointed and qualified to serve on the board. If a vacancy occurs other than by expiration of a term, the Governor shall appoint a qualified person to fill the vacancy for the unexpired term. No member may serve more than three consecutive three-year terms.

The Governor may remove any member of the board for unprofessional conduct, incompetence, or neglect of duty.

Section 8. That § 36-37-10 be AMENDED:

36-37-10. The board shall ~~meet during the first quarter of each calendar year to select a chair and vice-chair and to conduct other business. At least one additional meeting shall be held before the end of each calendar year. Additional meetings may be convened at the call of the chair or at the request of two or more board members.~~

~~Four members of the board constitutes a quorum to do business if the majority of the members present are speech-language pathologists~~ meet at least twice each year, at times and places determined by a majority of the board. The board may hold additional meetings as determined by the president or a majority of the board.

Section 9. That § 36-37-14 be AMENDED:

36-37-14. ~~To be eligible for licensure by the~~The board may issue ~~as~~a speech-language pathologist~~, the applicant shall~~ license to a person who:

(1) ~~Submit~~ Submits an application~~, upon~~ on a form prescribed by the board;

(2) ~~Pay~~Pays the application fee established by the board, in accordance with § 36-37-12;

(3) ~~Possess~~ Possesses a master's or doctoral degree from an educational institution that is accredited, or has been awarded accreditation candidate status, by the accrediting agency of the American Speech-Language-Hearing Association and ~~from~~ is an educational institution approved by the United States Department of Education;

(4) ~~Complete~~Has completed supervised clinical practicum experiences from an educational institution or its cooperating programs;

(5) ~~Complete~~Has completed a supervised postgraduate professional experience;

(6) ~~Pass~~Has passed a written national examination in speech-language pathology; and

(7) ~~Have~~ Has committed no act for which disciplinary action ~~may be~~ is justified.

Any license issued to a speech-language pathologist who possesses a master's or doctoral degree from an educational institution awarded candidate status by the American Speech-Language-Hearing Association automatically expires if the educational institution fails to maintain candidacy status or is denied accreditation. The speech-language pathologist shall inform the board of any changes to the educational institution's candidacy status.

Section 10. That § 36-37-15 be AMENDED:

36-37-15. The board shall ~~waive the qualifications in subdivisions 36-37-14(3), (4), (5), and (6) for any applicant~~ issue a speech-language pathologist license to a person who ~~has filed an application with the board, has paid the application fee, has not committed any act for which disciplinary action may be justified and~~:

(1) ~~Presents proof of current licensure in a state that has standards that are equivalent to or greater than those of this state~~Submits an application on a form prescribed by the board in rules promulgated in accordance with chapter 1-26; ~~or~~

(2) Pays the application fee established by the board, in accordance with § 36-37-12;

(3) Holds a current, unrestricted license from a state with substantially equivalent licensure standards, or a Certificate of Clinical Competence in Speech--Language Pathology from the American Speech-Language-Hearing Association; and

(4) Has not committed any act that constitutes grounds for refusal, suspension, or revocation of a license.

Section 11. That § 36-37-17 be AMENDED:

36-37-17. The board shall issue a provisional license ~~in speech-language pathology~~ to ~~an applicant~~ a person who:

(1) Except for the postgraduate professional experience, meets the academic, practicum, and examination requirements of this chapter;

(2) Submits an application~~, upon~~ on a form prescribed by the board~~, including a plan for the content of the postgraduate professional experience~~;

(3) Pays the application fee established by the board for a provisional license, in accordance with § 36-37-12; and

(4) Has not committed any act for which disciplinary action ~~may be~~ is justified.

A person holding a provisional license may practice speech-language pathology only while working under the ~~mentorship~~ supervision of a ~~licensed~~ speech-language pathologist who ~~meets the qualifications of~~ is licensed in accordance with § 36-37-14, 36-37-15, or 36-37-16. The board shall promulgate rules, in accordance with chapter 1-26, to establish the term for a provisional license and the conditions for its renewal ~~shall be determined by the board in rules promulgated pursuant to chapter 1-26~~.

Section 12. That § 36-37-18 be AMENDED:

36-37-18. The board shall issue a speech-language pathology assistant license to ~~an applicant~~ a person who:

(1) Submits an application~~, upon~~ on a form prescribed by the board;

(2) Pays the application fee established by the board, in accordance with § 36-37-12;

(3) Holds an associate's degree in speech-language pathology assisting or a bachelor's degree with a major ~~emphasis~~ in speech-language pathology or communication sciences and disorders from an accredited ~~academic~~ educational institution;

(4) ~~Submits an official transcript verifying necessary~~ Verifies required academic preparation and clinical experiences;

(5) Completes a ~~supervised clinical practicum of a~~ minimum of one hundred ~~clock~~ hours of supervised clinical experience as a speech-language pathology assistant while either on the job or during academic preparation; and

(6) Has committed no act for which disciplinary action is justified.

While completing the supervised clinical experience required in subdivision (5), neither the applicant nor the supervising speech-language pathologist may represent the applicant as a licensed speech-language pathology

assistant. The supervising speech-language pathologist must be available at all times when the applicant is competing on-the-job clinical fieldwork.

Section 13. That chapter 36-37 be amended with a NEW SECTION:

The board shall issue a speech-language pathology assistant license to a person who:

(1) Submits an application on a form prescribed by the board in rules promulgated in accordance with chapter 1-26;

(2) Pays the application fee established by the board, in accordance with § 36-37-12;

(3) Holds a current, unrestricted license from a state with substantially equivalent licensure standards, or a current Certification in Speech-Language Pathology Assisting from the American Speech-Language-Hearing Association; and

(4) Has not committed any act that constitutes grounds for refusal, suspension, or revocation of a license.

Section 14. That § 36-37-19 be AMENDED:

36-37-19. Any person who is employed as a paraprofessional providing speech-language pathology services, under the direct supervision of a speech-language pathologist, who ~~holds~~ possessed a speech-language pathologist certificate from the South Dakota Department of Education as of July 1, 2012, and does not otherwise meet the qualifications set forth in this chapter may apply for ~~and shall be granted~~ a speech-language pathology assistant license ~~and~~. The board shall issue a speech-language pathology assistant license, and the person may continue to practice as a speech-language pathology assistant as long as the person:

(1) ~~The~~Submitted an initial application ~~was made~~ for an assistant license no later than July 1, 2014;

(2) ~~The applicant~~Has continued to render speech-language pathology services in the ~~public school or~~ school district where the ~~applicant~~ person was employed at the time of initial application, with no break in employment; and

(3) ~~The~~ Pays the renewal fee ~~is paid~~ established by the board, in accordance with § 36-37-12.

Section 15. That § 36-37-20 be AMENDED:

36-37-20. ~~An~~A speech-language pathology assistant ~~shall~~ must be supervised by a ~~licensed~~ speech-language pathologist, or a speech-language pathologist with a limited license ~~who has~~, who has at least ~~three~~ two years of experience ~~as a speech-language pathologist~~. Any time licensed as a provisional speech-language pathologist counts toward the two-year experience requirement. The supervising speech-language pathologist:

(1) Is responsible for the extent, kind, and quality of service provided by the assistant, consistent with the board's designated standards and requirements;

(2) Shall ensure that persons receiving services from an assistant receive prior written notification that services are to be provided, in whole or in part, by a speech-language pathology assistant;

(3) May not supervise more than three speech-language pathology assistants at one time.

~~An~~A speech-language pathology assistant may have more than one supervisor ~~if the board is notified~~.

Section 16. That § 36-37-21 be AMENDED:

36-37-21. The board may impose ~~separately, or in combination,~~ any of the following disciplinary actions on a ~~licensee~~ speech-language pathologist or a speech-language-pathology assistant after formal or informal disciplinary action:

(1) Refuse to ~~issue or~~ renew a license;

(2) Issue a letter of reprimand or concern;

(3) ~~Require restitution of fees;~~

~~(4)~~ Impose probationary conditions;

~~(5)~~(4) Require ~~the licensee to reimburse~~ reimbursement to the board for costs of the investigation and proceeding;

~~(6)~~(5) Suspend or revoke a license;

~~(7)~~(6) Impose practice or supervision requirements, or both; or

~~(8)~~(7) Require ~~licensees to attend~~ attendance at continuing education programs specified by the board as to content and hours.

Section 17. That § 36-37-23 be AMENDED:

36-37-23. The board may take disciplinary actions for the following conduct:

(1) Fraudulently or deceptively obtaining ~~or,~~ attempting to obtain, using, or altering a license or a provisional license;

(2) ~~Fraudulently or deceptively using a license or provisional license;~~

~~(3) Altering a license or provisional license;~~

~~(4)~~ Aiding or abetting unlicensed practice;

~~(5)~~(3) Selling, bartering, or offering to sell or barter a license or provisional license;

~~(6)~~(4) Committing fraud or deceit in the practice of speech-language pathology, including:

(a) Willfully making or filing a false report or record in the practice of speech-language pathology;

(b) Submitting a false statement to collect a fee; or

(c) Obtaining a fee through fraud or misrepresentation;

~~(7)~~(5) Using or promoting, or causing the use of, any misleading, deceiving, improbable, or untruthful advertising matter, promotional literature, testimonial, guarantee, warranty, label, brand insignia, or any other representation;

~~(8)~~(6) Falsely representing the use or availability of services or ~~advise~~ advice of a physician;

~~(9)~~(7) Misrepresenting the applicant, licensee, or holder, by using the term,

doctor, or any similar word, abbreviation, or symbol if the use is not accurate or if the degree was not obtained from ~~a regionally~~ an accredited institution;

~~(10)~~(8) Committing any act of dishonesty, immorality, or unprofessional conduct while engaging in the practice of speech-language pathology;

~~(11)~~(9) Engaging in illegal, incompetent, or negligent practice;

~~(12) Providing professional services while:~~

~~(a) Mentally incompetent;~~

~~(b) Under the influence of alcohol;~~

~~(c) Using any narcotic or controlled dangerous substance or other drug that is in excess of therapeutic amounts or without valid medical indication;~~

~~(13)~~(10) Providing services or promoting the sale of devices, appliances, or products to a person who cannot reasonably be expected to benefit from such services, devices, appliances, or products;

~~(14)~~(11) Violating any provision of this chapter, or any lawful order given, or rule adopted, by the board;

~~(15)~~(12) Being convicted or pleading guilty or nolo contendere to a felony or to a crime involving moral turpitude, as defined in § 22-1-2, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside;

~~(16)~~(13) Being disciplined by a licensing or disciplinary authority of any state or country, or any nationally recognized professional organization, or convicted or disciplined by a court of any state or country for an act that would be grounds for disciplinary action under this section;

~~(17)~~(14) Exploiting a patient for financial gain or sexual favors;

~~(18)~~(15) Failing to report suspected cases of child abuse or vulnerable adult abuse;

~~(19) Diagnosing or treating a person for speech disorders by mail or telephone unless the person has been previously examined by the licensee and the diagnosis or treatment is related to such examination; or~~

~~(20)~~(16) Violating federal, state, or local laws relating to the profession;

(17) Not reporting discipline by another state or territory under federal jurisdiction to the board; or

(18) Not reporting a conviction of any felony offense, or any conviction of a criminal offense arising out of the practice of speech-language pathology.

~~The board shall adopt, by rules promulgated pursuant to chapter 1-26, a schedule of sanctions to be imposed as the result of formal or informal disciplinary activities conducted by the board.~~

Section 18. That § 36-37-24 be AMENDED:

36-37-24. The board may take disciplinary action or suspend, revoke, or reissue a license ~~or certification~~ only after a hearing conducted by a hearing examiner appointed by the board or by a majority of the members of the board.

Any disciplinary proceeding or proceeding relative to the revocation or suspension of a license or certification ~~shall~~ must otherwise conform to the procedure set forth in chapter 1-26 and chapter 36-1C.

Any decision of the board to discipline, suspend, revoke, or reissue a license or certification requires a majority vote of the board ~~membership~~.

~~Any party feeling aggrieved by any acts, rulings, or decisions of the board acting pursuant to § 36-37-21, 36-37-22, or 36-37-23, has the right to appeal under the provisions of chapter 1-26.~~

Section 19. That chapter 36-37 be amended with a NEW SECTION:

Any person licensed pursuant to this chapter shall inform the board, within ninety days, of any change in name, place of employment, or place of business. A post office box number may not be the address of a place of business.

Signed February 9, 2023

TRADE REGULATION

Chapter 142

(House Bill 1101)

An Act to ensure the proper labeling of American Indian arts and crafts.

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

Section 1. That § 37-7-2.1 be AMENDED:

37-7-2.1. It is a Class 2 misdemeanor for any person to distribute, sell, or offer for sale any article ~~similar to~~ that purports to be an American Indian art or craft ~~which~~ but was not manufactured by ~~the~~ an American Indian, unless ~~such~~ the person places, immediately above ~~such articles~~ the article, a sign ~~which~~ that states explicitly ~~that~~ the ~~articles are~~ article is not a genuine American Indian art or craft. The sign ~~provided for in~~ required under this section ~~shall be~~ must not be less than twenty-four inches by sixteen inches in size, and the lettering ~~thereon shall be~~ on the sign must not be less than one-half inch in height.

Signed February 22, 2023

AGRICULTURE AND HORTICULTURE

Chapter 143

(House Bill 1210)

An Act to modify the use of conservation district special revenue fund monies and to provide an appropriation therefor.

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

Section 1. That § 38-8-53 be AMENDED:

38-8-53. There is hereby created the conservation district special revenue fund to be used for the purpose of aiding, assisting, and cooperating with conservation districts of the state in securing by purchase, or otherwise, necessary equipment, trees, and other planting materials, and supplies as needed in furthering the program of conservation in these districts. Interest earned on money in the fund must be deposited in the fund. Any repayment of the principal amount of a loan and any interest thereon must be deposited into the fund and used for making new loans. Money in the fund is hereby continuously appropriated for the purposes provided in this section.

~~This~~ The fund ~~shall be~~ is administered by the State Conservation Commission and monies in the fund are expended upon vouchers approved by the commission, or its designated representative.

~~This loan~~ The monies in the fund ~~shall be made~~ are available to conservation districts of the state on a reimbursable basis by the districts. The commission shall promulgate rules, pursuant to chapter 1-26, establishing criteria and procedures for making loans to the conservation districts.

Signed March 6, 2023

Chapter 144

(House Bill 1025)

An Act to revise the fees for registration of an apiary.

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

Section 1. That § 38-18-5 be AMENDED:

38-18-5. Any person registering an apiary pursuant to § 38-18-3 shall pay a registration fee of ~~eleven~~ sixteen dollars per permanent location and ~~thirty~~ forty dollars per temporary location.

Signed February 9, 2023

Chapter 145

(House Bill 1028)

An Act to modify expiration dates and enforcement actions pertaining to pesticide applicator licenses.

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

Section 1. That § 38-21-14 be AMENDED:

38-21-14. Terms used in this chapter mean:

(1) "Animals," all vertebrate and invertebrate species, including humans;

(2) "Bulk pesticide," any volume of a pesticide, which is transported or held

in an immediate reusable container, in undivided quantities greater than one hundred pounds net dry weight or fifty-five United States gallons liquid measure~~. The~~, provided the term does not include pesticides that are in the custody of the ultimate user and are fully prepared for use by the user;

(3) "Bulk pesticide storage facility," any area, location, tract of land, building, structure, or premises, constructed in accordance with rules promulgated by the secretary, pursuant to chapter 1-26, for the storage of bulk pesticides;

(4) "Certified applicator," any individual who is certified under this chapter to use any pesticide;

(5) "Commercial applicator," ~~any~~ a certified applicator, eighteen years of age or older, who uses ~~any~~ pesticide, on any property, other than as a private applicator;

(6) "Defoliant," any substance or mixture of substances intended ~~for causing~~to cause the leaves or foliage of a plant to drop ~~from a plant~~, with or without causing abscission;

(7) "Desiccant," any substance or mixture of substances intended ~~for~~ to artificially ~~accelerating~~ accelerate the drying of plant tissue;

(8) "Device," any instrument or contrivance intended for trapping, destroying, repelling, or mitigating insects, or for destroying, repelling, or mitigating fungi, weeds, rodents, or any other pests designated by the secretary, but not including~~equipment :~~

(a) Equipment used for the application of pesticides, if sold separately~~,~~; and ~~not including rodent~~

(b) Rodent traps;

(9) "Environment," ~~includes~~ water, air, land, and all plants and animals living therein, and the interrelationships ~~which~~ that exist among ~~these~~them;

(10) "Equipment," any ~~type of~~ ground, water, or aerial equipment, or any device ~~using~~ that uses motorized, mechanical, or pressurized power ~~used~~ to apply ~~any~~ pesticide, but ~~does~~ not ~~include any~~including a pressurized, hand-sized, household device that requires the person applying the pesticide to be the source of power or energy to make the pesticide application;

(11) "Fungus," any nonchlorophyll-bearing thallophyte, except those on or in processed food, beverages, or pharmaceuticals, or those on or in living animals;

(12) "Insect," any ~~of the numerous~~ small invertebrate ~~animals~~ animal belonging to the class insecta or to other allied classes of arthropods;

(13) "Labeling," any ~~label and other~~ written, printed, or graphic matter:

(a) ~~On~~ That is on the pesticide or device, or on any of its containers or wrappers;

(b) ~~Accompanying~~ That accompanies the pesticide or device, at any time; or

(c) To which reference is made ~~on the label or~~ in literature ~~accompanying~~ that accompanies the pesticide or device, except for accurate, nonmisleading ~~reference~~ references to current ~~official~~ publications of any government institution or ~~official~~

agency of the United States, or of this or any other state, authorized by law to conduct research in the field of pesticides;

(14) "Land," all land and water areas, including airspace, and all plants, animals, structures, buildings, contrivances, and machinery, appurtenant thereto or situated thereon, fixed or mobile, including any used for transportation;

(15) "Pesticide dealer," any entity that distributes restricted-use pesticides, or pesticides that are restricted in use or distribution by regulation;

(16) "Nematode," any invertebrate animal of the phylum ne-mathel-minthes or nematoda;

(17) "Pest," any insect, rodent, nematode, fungus, weed, or other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other microorganism, except viruses, bacteria, or other microorganisms on or in a living human or other living ~~animals~~animal, which the secretary declares to be a pest;

(18) "Pesticide," any substance or mixture of substances intended ~~for preventing, destroying, repelling, or mitigating~~to:

(a) Prevent, destroy, repel, or mitigate any pest~~, or any substance or mixture of substances intended for use~~;

(b) Be used as a plant regulator, defoliant, or desiccant~~ or any substance or mixture of substances intended to be~~; or

(c) Be used as a spray adjuvant;

(19) "Plant regulator," any substance or mixture of substances, intended, through physiological action, ~~for accelerating or retarding~~to accelerate or retard the rate of growth or rate of maturation, or for otherwise altering the behavior of ornamental or crop plants, or the produce thereof, but ~~does~~ not ~~include~~ including substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, or soil amendments;

(20) "Private applicator," a certified applicator~~ over the age of,~~ eighteen years of age or older, who:

(a) Uses any pesticide, other than a restricted-use pesticide, for purposes of producing any agricultural commodity amounting to greater than one thousand dollars gross sales potential per year, on property owned or rented by the private applicator or the private applicator's employer; ~~or~~

(b) Uses any restricted-use pesticide for the purpose of producing any agricultural commodity on property owned or rented by the private applicator or the private applicator's employer;

(c) Applies any pesticide on the property of another~~ person~~, without compensation, other than the trading of personal services between producers of agricultural commodities; or

(d) Is not regularly in the business of applying pesticides for hire ~~amounting to~~, as a principal or regular occupation, and is not held out to the public as a commercial applicator;

(21) "Registrant," the person registering any pesticide in accordance with ~~the provisions of~~ this chapter;

(22) "Restricted-use pesticide," any pesticide classified as a restricted-use pesticide by the secretary;

(23) "Rinsate," any solution containing pesticide residue, which is generated from the washing or flushing of pesticide containers and pesticide equipment;

(24) "Secretary," the secretary of the Department of Agriculture and Natural Resources;

(25) "Spray adjuvant," any wetting agent, spreading agent, sticker, deposit builder, adhesive, emulsifying agent, deflocculating agent, water modifier, or similar agent, intended to be used with any other pesticide as an aid to the application or to the effect thereof, and which is in a package or container separate from that of the pesticide with which it is to be used;

(26) "Unreasonable adverse effects on the environment," any unreasonable risk to humans or the environment, taking into account the economic, social and environmental costs and benefits of the use of any pesticide; and

(27) "Weed," any plant which grows where not wanted.

Section 2. That § 38-21-17.1 be AMENDED:

38-21-17.1. A commercial applicator's license ~~shall expire on the last day of February~~expires on March thirty-first of the second year following the year of issuance, unless the license is revoked before the expiration, by the secretary, as provided for in § 38-21-44.

Section 3. That § 38-21-23.1 be AMENDED:

38-21-23.1. A private applicator's license ~~shall expire on the last day of February~~expires on March thirty-first of the third year following the year of issuance, unless the license is revoked before the expiration, by the secretary, as provided for in § 37-21-44.

Section 4. That § 38-21-33.9 be AMENDED:

38-21-33.9. A pesticide dealer's license ~~shall expire on the last day of February~~expires on March thirty-first of the second year following the year of issuance, unless the license is revoked before the expiration, by the secretary, as provided for in § 38-21-44.

Section 5. That § 38-21-44 be AMENDED:

38-21-44. The secretary, pending examination and after notice and opportunity for a hearing, pursuant to chapter 1-26, may suspend, revoke, deny, or modify any provision of any license issued under this chapter and held by the violator, if the secretary finds that the holder ~~of any license~~ or applicant has committed any of the following acts, each of which is declared to be a violation of this chapter:

(1) Made false or fraudulent claims through any media, misrepresenting the effect of materials or methods to be utilized;

(2) Made a pesticide recommendation or application inconsistent with the labeling, or mixed, loaded, stored, transported, disposed, displayed, or handled a pesticide or pesticide container inconsistent with the product label or labeling~~. A~~, provided a deviation may include ~~the~~:

(a) The loading and handling of the manufacturer's unbroken immediate container; and ~~provisions set forth in section 2(ee) of~~

(b) Actions permitted under the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. § 136(ee), as amended through ~~July 1, 1989~~January 1, 2023;

(3) Applied known ineffective or improper materials;

(4) Operated faulty or unsafe equipment;

(5) Operated in a faulty, careless, or negligent manner;

(6) Neglected or, after notice, refused to comply with ~~the provisions of~~ this chapter, ~~the~~ rules adopted under this chapter, or ~~of~~ any lawful order of the secretary;

(7) Refused or neglected to keep and maintain ~~the~~ records required by this chapter, or to make reports ~~when and~~ as required;

(8) Made false or fraudulent records, invoices, or reports;

(9) Engaged in the business of applying a pesticide on the lands of another, without having a license or certification required by this chapter;

(10) Used fraud or misrepresentation in ~~making an application for, or renewal of,~~ applying for or renewing a license or certification;

(11) Refused or neglected to comply with any limitations or restrictions listed on an issued license;

(12) Aided or abetted a licensed or an unlicensed person to evade the provisions of this chapter, conspired with such a ~~licensed or an unlicensed~~ person to evade the provisions of this chapter, or allowed one's license or certification to be used by another person;

(13) Made false or misleading statements to the secretary or the secretary's agents during an inspection or investigation conducted under ~~the authority of~~ this chapter;

(14) Impersonated any federal, state, county, or city inspector or official;~~or~~

(15) Failed to maintain the aerial requirements, as provided for in § 38-21-20;~~or~~

(16) Transported, stored, used, disposed of, or handled any pesticide, pesticide container, rinsate, or application equipment in a manner ~~as to endanger or cause~~ that:

(a) Endangers or causes injury or damage to humans, vegetation, crops, livestock, wildlife, or beneficial insects; or~~to pollute~~

(b) Pollutes groundwater or surface water; or

(17) Violated agricultural pesticide application laws of any other state or violated federal agricultural pesticide application laws while in any other state.

In addition to the administrative sanctions available to the secretary pursuant to this section, a violation of this section ~~by any person~~ is a Class 2 misdemeanor.

~~In addition to any criminal penalty, any~~Any person who violates this section is also subject to a civil penalty, not to exceed five thousand dollars per violation. ~~Any~~ A civil penalty under this section ~~shall~~ must be imposed by the circuit court.

Any civil penalty collected ~~shall~~ must be deposited into the state general fund.

The secretary is not required to seek the administrative sanctions available under this section before referring charges or commencing any action against an alleged violator of this section.

Signed February 9, 2023

Chapter 146

(House Bill 1121)

An Act to expand the definition of a pesticide dealer.

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

Section 1. That § 38-21-14 be AMENDED:

38-21-14. Terms used in this chapter mean:

(1) "Animals," all vertebrate and invertebrate species, including humans;

(2) "Bulk pesticide," any volume of a pesticide, which is transported or held in an immediate reusable container, in undivided quantities greater than one hundred pounds net dry weight or fifty-five United States gallons liquid measure~~. The term does not include~~, but not including pesticides that are in the custody of the ultimate user and are fully prepared for use by the user;

(3) "Bulk pesticide storage facility," any area, location, tract of land, building, structure, or premises constructed, in accordance with rules promulgated by the secretary, for the storage of bulk pesticides;

(4) "Certified applicator," any individual ~~who is~~ certified under this chapter to use any pesticide;

(5) "Commercial applicator," any certified applicator eighteen years of age or older who uses any pesticide on any property, other than as a private applicator;

(6) "Defoliant," any substance or mixture of substances intended for causing the leaves or foliage to drop from a plant, with or without causing abscission;

(7) "Desiccant," any substance or mixture of substances intended for artificially accelerating the drying of plant tissue;

(8) "Device," any instrument or contrivance intended for trapping, destroying, repelling, or mitigating insects or for destroying, repelling, or mitigating fungi, weeds, rodents, or any other pests designated by the secretary, but not including equipment used for the application of pesticides, if sold separately, and not including rodent traps;

(9) "Environment," ~~includes~~ water, air, land, and all plants and animals living therein, and the interrelationships ~~which~~ that exist among these;

(10) "Equipment," any type of ground, water, or aerial equipment or any device using motorized, mechanical, or pressurized power ~~used~~ to apply any pesticide, but ~~does~~ not ~~include~~ including any pressurized, hand-sized, household device that requires the person applying the pesticide to be the source of power or energy to make the pesticide application;

(11) "Fungus," any nonchlorophyll-bearing thallophyte, except those on or in processed food, beverages, or pharmaceuticals, or those on or in living animals;

(12) "Insect," any of the numerous small invertebrate animals belonging to the class insecta or to other allied classes of arthropods;

(13) "Labeling," any label and other written, printed, or graphic matter:

(a) On the pesticide or device or any ~~of its~~ containers or wrappers;

(b) Accompanying the pesticide or device at any time; or

(c) To which reference is made on the label or in literature accompanying the pesticide or device, except accurate, nonmisleading reference to current official publications of any government institution or official agency of the United States or of this or any other state, authorized by law to conduct research in the field of pesticides;

(14) "Land," all land and water areas, including airspace, and all plants, animals, structures, buildings, contrivances, and machinery, appurtenant thereto or situated thereon, fixed or mobile, including any used for transportation;

(15) "Pesticide dealer," ~~any entity that distributes~~ a person who distributes:

(a) A restricted-use ~~pesticides or pesticides~~ pesticide;

(b) A pesticide that is restricted in use or distribution, by regulation; or

(c) A pesticide that is to be applied to agricultural land and is provided in a container larger than one hundred gallons;

(16) "Nematode," any invertebrate animal of the phylum ne-mathel-minthes or nematoda;

(17) "Pest," any insect, rodent, nematode, fungus, weed, or other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other microorganism, except viruses, bacteria, or other microorganisms on or in living human or other living animals, which the secretary declares to be a pest;

(18) "Pesticide," any substance or mixture of substances ~~intended for preventing, destroying, repelling, or mitigating~~ intended:

(a) To prevent, destroy, repel, or mitigate any pest~~, or any substance or mixture of substances intended for use~~;

(b) To be used as a plant regulator, defoliant, or desiccant ~~or any substance or mixture of substances intended to~~; or

(c) To be used as a spray adjuvant;

(19) "Plant regulator," any substance or mixture of substances, intended, through physiological action, for accelerating or retarding the rate of growth or rate of maturation, or for otherwise altering the behavior of ornamental or crop plants or the produce thereof, but ~~does~~ not ~~include~~ including substances to the extent ~~that~~ they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, or soil amendments;

(20) "Private applicator," a certified applicator over the age of eighteen who:

(a) Uses any pesticide, other than a restricted-use pesticide, for purposes of producing any agricultural commodity amounting to greater than one thousand dollars gross sales potential per year, on property owned or rented by the private applicator or the private applicator's employer; ~~or~~

(b) Uses any restricted-use pesticide for the purpose of producing any agricultural commodity on property owned or rented by the private applicator or the private applicator's employer;

(c) Applies any pesticide on the property of another person, without compensation, other than the trading of personal services between producers of agricultural commodities; or

(d) Is not regularly in the business of applying pesticides for hire, amounting to a principal or regular occupation, and is not held out to the public as a commercial applicator;

(21) "Registrant," the person registering any pesticide in accordance with ~~the provisions of~~ this chapter;

(22) "Restricted-use pesticide," any pesticide classified as a restricted-use pesticide by the secretary;

(23) "Rinsate," any solution containing pesticide residue, which is generated from washing or flushing of pesticide containers and pesticide equipment;

(24) "Secretary," the secretary of the Department of Agriculture and Natural Resources;

(25) "Spray adjuvant," any wetting agent, spreading agent, sticker, deposit builder, adhesive, emulsifying agent, deflocculating agent, water modifier, or similar agent intended to be used with any other pesticide as an aid to the application or to the effect thereof, and which is in a package or container separate from that of the pesticide with which it is to be used;

(26) "Unreasonable adverse effects on the environment," any unreasonable risk to humans or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide; and

(27) "Weed," any plant ~~which~~ that grows where it is not wanted.

Signed March 6, 2023

GAME, FISH, PARKS AND FORESTRY

Chapter 147
(House Bill 1019)

An Act to repeal certain requirements for Game, Fish and Parks licensing agents.

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

Section 1. That § 41-6-59 be REPEALED:

~~Any agent, who has been appointed in the previous year to sell licenses and permits, is not required to furnish a bond or other security but shall pay the department an annual fee of twenty-five dollars. Any agent, who was not appointed in the previous year to sell the licenses and permits, shall be bonded or shall furnish security equal to the total value of the licenses issued to the agent at any one time. A certificate of deposit, money order, or other negotiable instrument issued by a bank, savings and loan association, or a credit union bearing the agent's social security number or employer identification number payable to the department is sufficient security. If an agent fails to timely pay the amount owed to the department, the department may cash the certificate and satisfy the amount owed to the department and remit the balance to the agent. If the agent has paid all the fees owed and requests a return of the certificate of deposit, money order, or other negotiable instrument, the department shall endorse it payable to the agent and return it to the agent. No agent who defaults on payment of the amount owed to the department may be appointed an agent until the unpaid amount, plus interest at the Category B rate of interest as defined in § 54-3-16, is paid.~~

Section 2. That § 41-6-68 be REPEALED:

~~Any agent appointed by the department shall promptly transmit such reports as may be required by the Game, Fish and Parks Commission or the department, together with all license fees received during the accounting period designated by the department to be deposited in the game, fish and parks fund.~~

Signed February 9, 2023

Chapter 148
(House Bill 1018)

An Act to repeal the authorized forfeiture of property used in the illegal capture of fish.

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

Section 1. That § 41-12-9.1 be REPEALED:

~~The following are subject to forfeiture pursuant to the provisions of chapter 15-6, and no property right shall exist in them:~~

~~(1) Any trammel or gill net, seine, or similar device used by any person to illegally capture fish in any public waters of this state;~~

~~(2) Any conveyance, including aircraft, vehicle, or vessel, used to transport, possess, or conceal any trammel or gill net, seine, or similar device used by any person to illegally capture fish in any public waters of this state.~~

Signed February 9, 2023

WATER MANAGEMENT

Chapter 149

(Senate Bill 17)

An Act to make appropriations for water and environmental purposes and to declare an emergency.

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

Section 1. That § 46A-1-2.1 be AMENDED:

46A-1-2.1. The Legislature finds that the following water resources projects are necessary for the general welfare of the people of ~~the State of South Dakota~~ this state and authorizes the projects, pursuant to § 46A-1-2, to be included in the state water resources management system, to serve as the preferred, priority objectives of the state:

(1) Belle Fourche irrigation upgrade project~~,~~;

(2) Big Sioux flood control study~~, hydrology~~;

(3) Hydrology and water management studies, to manage and protect state water resources for current and future generations~~,~~;

(4) Cendak irrigation project~~,~~;

(5) Gregory County pumped storage site~~,~~;

(6) Lake Andes-Wagner/Marty II irrigation unit~~,~~;

(7) Lewis and Clark rural water system~~,~~;

(8) Sioux Falls flood control project~~, and~~;

(9) Vermillion basin flood control project;

(10) Water Investment in Northern South Dakota project; and

(11) Western Dakota Regional Water System study.

Section 2. That section 2 of chapter 224 of the 2015 Session Laws be AMENDED:

~~Section 2.~~ There is hereby appropriated from the South Dakota water and environment fund ~~established pursuant to § 46A-1-60~~, the sum of seven million seven hundred thousand dollars ~~($7,700,000), or so much thereof as may be necessary, to provide funds~~ to the ~~South Dakota~~ Board of Water and Natural

Resources for the purpose of providing a ~~no interest loan~~ grant to local project sponsors ~~as an advance on federal funds~~ for the construction of facilities included in the Lewis and Clark Rural Water System, as authorized in § 46A-1-13.10.

Notwithstanding § 46A-1-61, the board may provide the grant for up to one hundred percent of the nonfederal share of expenditures.

~~Funds shall~~ Monies must be provided according to terms and conditions established by the Board of Water and Natural Resources. ~~The board shall provide the funds based upon the expectation that the federal government will appropriate funds up to the federally authorized ceiling and that federal funding will be the repayment source.~~

Section 3. There is hereby appropriated from the South Dakota water and environment fund the sum of $200,273 to the Board of Water and Natural Resources for the purpose of providing a grant to local project sponsors for a feasibility level study update of the Big Sioux flood control study, in Watertown and the vicinity.

The study update is to be completed by the United States Army Corps of Engineers.

Monies must be provided according to the terms and conditions established by the Board of Water and Natural Resources.

Section 4. There is hereby appropriated from the South Dakota water and environment fund the sum of $5,000,000 to the Board of Water and Natural Resources for the purpose of providing a grant to local project sponsors for the engineering design, preconstruction activities, and construction of the facilities included in the Water Investment in Northern South Dakota project.

Monies must be provided according to the terms and conditions established by the Board of Water and Natural Resources.

Section 5. There is hereby appropriated from the South Dakota water and environment fund the sum of $1,000,000 to the Board of Water and Natural Resources for the purpose of providing a grant to local project sponsors for a feasibility level study, system startup, and administration of the Western Dakota regional water system study.

Monies must be provided according to the terms and conditions established by the Board of Water and Natural Resources.

Section 6. There is hereby appropriated from the South Dakota water and environment fund the sum of $7,425,000 to the Board of Water and Natural Resources for the purpose of providing grants and loans to project sponsors under the state consolidated water facilities construction program, established pursuant to § 46A-1-63.1.

Monies must be provided according to the terms and conditions established by the Board of Water and Natural Resources.

Section 7. There is hereby appropriated from the South Dakota water and environment fund the sum of $2,450,000 to the Board of Water and Natural Resources for the purpose of providing grants and loans to project sponsors under the state solid waste management program, established pursuant to § 46A-1-83.

Monies must be provided according to the terms and conditions established by the Board of Water and Natural Resources.

Section 8. There is hereby appropriated from administrative expense surcharge fees deposited in the state water pollution control revolving fund program subfund the sum of $2,200,000 to the Board of Water and Natural Resources for the purpose of providing water quality grants under the state water pollution control revolving fund program, established pursuant to § 46A-1-60.1.

Monies must be provided according to the terms and conditions established by the Board of Water and Natural Resources.

Section 9. There is hereby appropriated from administrative expense surcharge fees deposited in the state drinking water revolving fund program subfund the sum of $2,000,000 to the Board of Water and Natural Resources for the purpose of providing grants for the construction of drinking water facilities under the state drinking water revolving fund program, established pursuant to § 46A-1-60.1.

Monies must be provided according to the terms and conditions established by the Board of Water and Natural Resources.

Section 10. There is hereby appropriated from administrative expense surcharge fees deposited in the state water pollution control revolving fund program subfund the sum of $750,000 to the Board of Water and Natural Resources for the purpose of contracting for the preparation of applications and the administration of clean water state revolving fund loans under the state water pollution control revolving fund program, established pursuant to § 46A-1-60.1.

Monies must be provided according to the terms and conditions established by the Board of Water and Natural Resources.

Section 11. There is hereby appropriated from administrative expense surcharge fees deposited in the state drinking water revolving fund program subfund the sum of $750,000 to the Board of Water and Natural Resources for the purpose of contracting for the preparation of applications and the administration of drinking water state revolving fund loans under the state drinking water revolving fund program, established pursuant to § 46A-1-60.1.

Monies must be provided according to the terms and conditions established by the Board of Water and Natural Resources.

Section 12. There is hereby appropriated from federal funds deposited in the state drinking water revolving fund program subfund the sum of $485,000 to the Board of Water and Natural Resources for the purpose of providing small system technical assistance and local assistance set-aside grants, or contracts, to eligible entities under the state drinking water revolving fund program, established pursuant to § 46A-1-60.1.

Monies must be provided according to terms and conditions established by the Board of Water and Natural Resources.

Section 13. There is hereby appropriated from federal funds deposited in the state water pollution control revolving fund program subfund the sum of $200,000 to the Board of Water and Natural Resources for the purpose of providing small system technical assistance set-aside grants, or contracts, to eligible entities under the state water pollution control revolving fund program, established pursuant to § 46A-1-60.1.

Monies must be provided according to terms and conditions established by the Board of Water and Natural Resources.

Section 14. The secretary of the Department of Agriculture and Natural Resources shall approve vouchers and the state auditor shall draw warrants to pay expenditures authorized by this Act.

Section 15. Any amounts appropriated in this Act not lawfully expended or obligated shall revert in accordance with the procedures prescribed in chapter 4-8.

Section 16. Whereas, this Act is necessary for the support of the state government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

Signed March 15, 2023

Chapter 150

(Senate Bill 83)

An Act to revise provisions regarding water development districts.

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

Section 1. That § 46A-3A-7.1 be AMENDED:

46A-3A-7.1. The Vermillion Basin Water Development District is hereby established. The Vermillion Basin Water Development District includes all of Turner, McCook, and Clay counties.

Section 2. That § 46A-3E-14 be AMENDED:

46A-3E-14. ~~Appropriate~~The appropriate tax collecting officials shall collect all water development district taxes and assessments, together with interest and penalty thereon, if any, in the same manner as the general taxes and assessments are collected and shall pay over monthly to the water development district treasurer all taxes so collected during the preceding month, with interest and penalties. The water development district treasurer shall immediately enter these receipts to the credit of the depository accounts designated by the water development district board of directors pursuant to ~~§ 46A-3E-10~~ 46A-3E-9.

Signed February 27, 2023

Chapter 151

(Senate Bill 143)

An Act to raise the revenue threshold for a required audit of a water development district.

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

Section 1. That § 46A-3D-4 be AMENDED:

46A-3D-4. The fiscal year of the water development district ~~shall coincide~~ coincides with the calendar year.

At the ~~close~~ conclusion of each fiscal year ~~of business~~ in which the district's revenues ~~exceed two~~ exceeded three hundred fifty thousand dollars, the ~~district~~ board shall obtain ~~an audit by~~, from the Department of Legislative Audit~~,~~ or an auditor approved by the ~~Department of Legislative Audit~~ department, an audit of the books, records, and financial affairs of the ~~water development~~ district. ~~A~~ The district shall retain a written report of the audit ~~shall be kept on file~~ in ~~the~~ its principal place of business ~~of the water development district and a copy of the report shall be filed~~ and shall file a copy in the Office of the Secretary of State. ~~Notice of~~ The district shall publish a notice regarding availability of the audit report ~~shall be promptly published~~ in the official newspapers ~~of the water development district~~ designated in accordance with § 46A-3D-11.

A ~~water development~~ district ~~with two~~ having three hundred fifty thousand dollars or less in annual revenue may submit an annual report in lieu of ~~a formal~~ an audit. The ~~report~~ district shall ~~be submitted~~ submit the report to the auditor-general, on forms prescribed by the ~~Department of Legislative Audit~~ department.

The auditor-general may audit the books and records of any office or officer of ~~any water development~~ a district, if ~~it is~~ requested by the ~~district's~~ board ~~of directors~~ or if the auditor-general finds that ~~special reasons exist~~ cause exists.

Signed March 6, 2023

Chapter 152

(Senate Bill 200)

An Act to authorize participation in contracts by certain board members and employees of water districts.

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

Section 1. That chapter 46A-9 be amended with a NEW SECTION:

The board may authorize a director, or an employee of the water user district whose responsibilities include approving, awarding, or administering a contract on behalf of the district, to be a party to a contract or derive a direct benefit from a contract with the district, if:

(1) The person provides a written disclosure of the person's interest to the board;

(2) The board reviews the terms of the contract and the person's obligations and benefits under the contract;

(3) The board determines that the contract is fair and reasonable to the district and not contrary to the public interest; and

(4) The board adopts a resolution of approval that is in written form and retained as a public record.

Section 2. That chapter 46A-9 be amended with a NEW SECTION:

For purposes of section 1 of this Act, a direct benefit from a contract is derived if the director or employee, the spouse of the director or employee, or any other person with whom the director or employee lives and commingles assets:

(1) Has more than a five percent ownership interest in an entity that is a party to the contract;

(2) Derives income, compensation, or commission directly from the contract or from an entity that is a party to the contract;

(3) Acquires real or personal property under the contract; or

(4) Serves as a director on the board of a for-profit entity that:

(a) Derives income or a commission from the contract; or

(b) Acquires real or personal property under the contract.

A direct benefit is not derived solely from the value associated with any investment or holdings by a director or employee, the spouse of the director or employee, or any other person with whom the director or employee lives and commingles assets.

Signed March 6, 2023

Chapter 153

(Senate Bill 84)

An Act to authorize compensation for water project district directors.

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

Section 1. That § 46A-18-36 be AMENDED:

46A-18-36. The ~~district directors may receive no compensation but shall be entitled to per diem and reimbursement for expenses, including traveling expenses, necessarily incurred in the discharge of their duties. The amount of reimbursement shall be at current state government rates~~ board of directors of a water project district shall establish amounts to reimburse each district director for expenses for lodging, meals, and mileage, and to provide compensation for each day of actual service for traveling to, attending, and returning from a meeting, hearing, or any other official activity required of the water project district board. Any reimbursement or compensation authorized by this section must be paid on vouchers verified and approved according to procedures determined by the board.

Signed February 27, 2023

Chapter 154

(Senate Bill 44)

An Act to repeal provisions regarding the creation of river basin natural resource districts.

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

Section 1. That § 46A-19-1 be REPEALED:

~~Pursuant to §§ 46A-19-3 to 46A-19-11, inclusive, the state is divided into nine river basin natural resource districts. Each district is a political subdivision of the state.~~

Section 2. That § 46A-19-2 be REPEALED:

~~As used in this chapter, the term, district, means one of the river basin natural resource districts created by this chapter.~~

Section 3. That § 46A-19-3 be REPEALED:

~~The Red River and Minnesota River Basin Natural Resource District is hereby established. The district shall include the portions of Brookings, Codington, Day, Deuel, Grant, Marshall, and Roberts counties located in the Red River hydrologic basin and the Minnesota River hydrologic basin.~~

Section 4. That § 46A-19-4 be REPEALED:

~~The Big Sioux River Basin Natural Resource District is hereby established. The district shall include the portions of Brookings, Clark, Clay, Codington, Day, Deuel, Grant, Hamlin, Kingsbury, Lake, Lincoln, Marshall, McCook, Minnehaha, Moody, Roberts, Turner, and Union counties located in the Big Sioux River hydrologic basin.~~

Section 5. That § 46A-19-5 be REPEALED:

~~The Vermillion River Basin Natural Resource District is hereby established. The district shall include the portions of Brookings, Clark, Clay, Hamlin, Hutchinson, Kingsbury, Lake, Lincoln, McCook, Miner, Minnehaha, Turner, Union, and Yankton counties located in the Vermillion River hydrologic basin.~~

Section 6. That § 46A-19-6 be REPEALED:

~~The James River Basin Natural Resource District is hereby established. The district shall include the portions of Aurora, Beadle, Bon Homme, Brown, Clark, Davison, Day, Douglas, Edmunds, Faulk, Hand, Hanson, Hutchinson, Hyde, Jerauld, Kingsbury, Marshall, McCook, McPherson, Miner, Potter, Roberts, Sanborn, Spink, Turner, and Yankton counties located in the James River hydrologic basin.~~

Section 7. That § 46A-19-7 be REPEALED:

~~The Upper Missouri River Trench Basin Natural Resource District is hereby established. The district shall include the portions of Campbell, Corson, Dewey, Edmunds, Faulk, Haakon, Hughes, Hyde, McPherson, Potter, Stanley, Sully, Walworth, and Ziebach counties located in the Upper Missouri River Trench hydrologic basin.~~

Section 8. That § 46A-19-8 be REPEALED:

~~The Lower Missouri River Trench Basin Natural Resource District is hereby established. The district shall include the portions of Aurora, Beadle, Bon Homme, Brule, Buffalo, Charles Mix, Clay, Davison, Douglas, Faulk, Gregory, Haakon, Hand, Hughes, Hutchinson, Hyde, Jackson, Jones, Jerauld, Lyman, Pennington, Potter, Stanley, Sully, Tripp, Union, and Yankton counties located in the Lower Missouri River Trench hydrologic basin.~~

Section 9. That § 46A-19-9 be REPEALED:

~~The Little Missouri River, Cannonball River, Moreau River, and Grand River Basin Natural Resource District is hereby established. The district shall include the portions of Butte, Corson, Dewey, Harding, Meade, Perkins, and Ziebach counties located in the Little Missouri River hydrologic basin, the Cannonball River hydrologic basin, the Moreau River hydrologic basin, and the Grand River hydrologic basin.~~

Section 10. That § 46A-19-10 be REPEALED:

~~The Belle Fourche River and the Cheyenne River Basin Natural Resource District is hereby established. The district shall include the portions of Butte, Custer, Fall River, Haakon, Lawrence, Meade, Oglala Lakota, Pennington, and Ziebach and counties located in the Belle Fourche River hydrologic basin and the Cheyenne River hydrologic basin.~~

Section 11. That § 46A-19-11 be REPEALED:

~~The White River and Niobrara River Basin Natural Resource District is hereby established. The district shall include the portions of Bennett, Fall River, Gregory, Jackson, Jones, Lyman, Mellette, Oglala Lakota, Pennington, Todd, and Tripp counties located in the White River hydrologic basin and the Niobrara River hydrologic basin.~~

Section 12. That § 46A-19-16 be REPEALED:

~~Each district is governed by a council. The size of each district council is determined by the task force based on the population and the geography of the district.~~

Section 13. That § 46A-19-17 be REPEALED:

~~Five percent of the electors of a district may petition the district council to submit to an election the question of whether the district should become dormant. The election shall be conducted, canvassed, recounted, and contested as elections under the general laws of this state. No district may become dormant unless sixty percent or more of the votes cast are in favor of the district becoming dormant.~~

Signed February 28, 2023

PUBLIC UTILITIES AND CARRIERS

Chapter 155

(Senate Bill 11)

An Act to update the deposit threshold for actions related to general rate cases.

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

Section 1. That § 49-1A-8 be AMENDED:

49-1A-8. There is created a special fund within the state treasury to be known as the South Dakota Public Utilities Commission Regulatory Assessment Fee fund. The Public Utilities Commission may require a public utility as defined in ~~subdivision 49-34A-1(12)~~ § 49-34A-1 to make a deposit of up to ~~two hundred fifty~~five hundred thousand dollars when it files for approval of a general rate case, regardless of the number of issues involved. The commission may require a deposit of up to fifty thousand dollars for the filing of a tariff for approval under the provisions of §§ 49-34A-4 and ~~§§~~ 49-34A-25.1 to 49-34A-25.4, inclusive, or makes a filing pursuant to §§ 49-34A-97 to 49-34A-100, inclusive. The deposits shall be made to the South Dakota Public Utilities Commission Regulatory Assessment Fee fund, the amount to be designated by commission order. The ~~fund shall be invested as provided by law, and the~~ interest earned ~~shall~~ on monies in the fund are to be credited to the fund.

Signed February 22, 2023

Chapter 156

(House Bill 1184)

An Act to revise provisions related to the One-Call Notification Board.

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

Section 1. That § 49-7A-2 be AMENDED:

49-7A-2. The Statewide One-Call Notification Board is established as an agency of state government and funded by revenue generated by the one-call notification center. ~~The board is attached to the Public Utilities Commission only for budgetary purposes.~~ The board is solely responsible for all contractors and employment of any personnel working for the board and retains responsibility for all funds of the board and all expenditures thereof. The board is solely responsible for all functions and duties vested in the board ~~and the board shall exercise those functions and duties independent of the Public Utilities Commission~~. Any interest earned on money in the state one-call fund shall be deposited in the fund. The money is continuously appropriated to the board to implement and administer the provisions of this chapter. The one-call notification center may be organized as a nonprofit corporation. The one-call notification center shall provide a service through which a person can notify the operators of underground facilities of plans to excavate and to request the marking of the facilities. All operators are subject to this chapter and the rules promulgated thereto. Any operator who fails to become a member of the one-call notification center or who fails to submit the locations of the operator's underground facilities to the center, as required by this chapter and rules of the board, is subject to applicable penalties under §§ 49-7A-18 and 49-7A-19 and is subject to civil liability for any damages caused by noncompliance with this chapter. Any penalties which may be assessed by the board under this chapter ~~shall~~ must be collected as provided by law and deposited into the one-call fund.

Signed March 2, 2023

Chapter 157

(House Bill 1013)

An Act to update references to certain federal motor carrier regulations.

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

Section 1. That § 49-28A-3 be AMENDED:

49-28A-3. The state hereby adopts Title 49 of the Code of Federal Regulations, subtitle B, chapter I, subchapter A, part 107 (subparts F and G only) and subchapter C, parts 171 to 180, inclusive, as amended through January 1, ~~2022~~ 2023, and Title 49 of the Code of Federal Regulations, subtitle B, chapter III, subchapter B, part 387 and parts 390 to 397, inclusive, as amended through January 1, ~~2022~~ 2023, with the following modifications:

(1) All references to interstate operations ~~shall~~ must also include intrastate operations except that drivers and motor carriers operating intrastate vehicles and combinations of vehicles with two axles or less or with a gross vehicle weight rating of not more than twenty-six thousand pounds which are not used to transport hazardous materials requiring placarding under part 177, or designed to transport more than fifteen passengers, including the driver, are not subject to parts 390-397;

(2) For the purposes of ~~part~~ 49 C.F.R. § 391.11(b)(1), a driver ~~shall~~ must be at least twenty-one years old if engaged in interstate commerce, or transporting hazardous material of a type or quantity requiring placarding under part 177, or operating a vehicle designed to transport more than fifteen passengers, including the driver. All other drivers ~~shall~~ must be at least eighteen years old;

(3) Unless required by an employer to be medically certified under Title 49 of the Code of Federal Regulations, intrastate drivers are exempt from the physical requirements of ~~part~~ 49 C.F.R. § 391.41.

Any violation of part 387 and parts 390 to 396, inclusive, the motor carrier safety requirements governing the qualifications of drivers, driving of motor vehicles, parts and accessories necessary for safe operation, notification and reporting of accidents, assistance with investigations and special studies, hours of service of drivers, inspection, repair, and maintenance is a Class 2 misdemeanor. Any violation of the hazardous materials regulations pertaining to registration of cargo tank motor vehicles, registration of persons who offer or transport hazardous materials, general information, regulations and definitions, hazardous materials tables, hazardous materials communication regulations, and test and inspection marking requirements found in parts 107 (subparts F and G only), 171, 172, and 178 to 180, inclusive, is a Class 2 misdemeanor. Any violation of the hazardous materials regulations pertaining to packaging, prohibited shipments, loading and unloading, segregation and separation, retesting and inspection of cargo tanks, and other carriage by regulations found in parts 173 to 180, inclusive, or violation of the driving and parking rules in part 397, is a Class 1 misdemeanor.

Signed February 9, 2023

Chapter 158

(House Bill 1005)

An Act to update certain citations to federal regulations regarding pipeline safety inspections.

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

Section 1. That § 49-34B-1 be AMENDED:

49-34B-1. Terms used in this chapter mean:

(1) "Commission," the Public Utilities Commission;

(2) "Emergency release," a release of a quantity of gas that is great enough to pose a clear and immediate danger to life, health, environment, or that threatens a significant loss of property;

(3) "Gas," natural gas, liquefied natural gas, flammable gas, gas which is toxic or corrosive, or liquefied petroleum gas in distribution systems;

(4) "Gas pipeline," all parts of those physical facilities through which gas moves in transportation, including pipe, valves, and other appurtenances attached to pipe, compressor units, metering stations, regulator stations, delivery stations, holders, and fabricated assemblies;

(5) "Gas pipeline facilities," new and existing pipelines, rights-of-way, master meter systems, pipeline facilities within this state which transport gas from an interstate gas pipeline to a direct sales customer within this state purchasing gas for its own consumption, and any equipment, facility, or building used in the transportation of gas or in the treatment of gas during the course of transportation;

(6) "Inspection fee," any fee assessed to pipeline operators based on the expenses and obligations incurred by the commission in implementing and administering this chapter;

(7) "Intrastate pipeline," any pipeline or that part of a pipeline to which this part applies that is not an interstate pipeline;

(8) "Interstate pipeline," pipeline facilities used in the transportation of gas which are subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, United States Code, Title 15, sections 717 to 717z, inclusive, as amended to January 1, ~~2019~~2023, except that it does not include any pipeline facilities within this state which transport gas from an interstate gas pipeline to a direct sales customer within this state purchasing gas for its own consumption;

(9) "Liquefied natural gas," natural gas or synthetic gas having methane (CH4) as its major constituent that has been changed to a liquid or semisolid;

(10) "Master meter system," any pipeline system for distributing gas within a definable area, such as a mobile home park, housing project, or apartment complex, where the operator purchases metered gas from an outside source for resale through a gas distribution pipeline system and the gas distribution pipeline system supplies the ultimate consumer who either purchases the gas directly through a meter or by other means, such as by rents;

(11) "Pipeline operator," any person who owns or operates a pipeline;

(12) "Release," a spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, leaching, dumping, disposing, flowing, or any uncontrolled escape of a gas from a pipeline; and

(13) "Transportation of gas," the gathering, transmission, or distribution of gas by pipeline or the storage of gas.

Section 2. That § 49-34B-3 be AMENDED:

49-34B-3. There is created a pipeline safety inspection program. The federal safety standards adopted as Code of Federal Regulations, title 49 appendix, parts 191, 192, 193, and 199 as amended to January 1, ~~2021~~2023, are adopted as minimum safety standards for this chapter. The commission shall establish and implement a compliance program to enforce these safety standards. The program shall be established and implemented in a manner that fully complies with requirements for state certification under the United States Code, title 49, section 60105, as amended to January 1, ~~2021~~2023.

Section 3. That § 49-34B-4 be AMENDED:

49-34B-4. The commission may, by rules promulgated pursuant to chapter 1-26, establish safety standards, but not more stringent than federal safety standards as provided by § 49-34B-3, for the intrastate transportation of gas and gas pipeline facilities. The standards may apply to the design, installation, inspection, testing, construction, extension, operation, replacement, and maintenance of gas pipeline facilities. Standards affecting the design, installation, construction, initial inspection, and initial testing do not apply to pipeline facilities in existence on the date the standards are adopted by either this state or the federal government. The safety standards shall be practicable and designed to meet the need for pipeline safety. In prescribing the standards, the commission shall consider:

(1) Relevant available pipeline safety data;

(2) Whether the standards are appropriate for the particular type of pipeline transportation of gas;

(3) The reasonableness of any proposed standards;

(4) The extent to which the standard will contribute to public safety; and

(5) The existing standards established by the secretary of the United States Department of Transportation pursuant to the United States Code, title 49, section 60101 et seq. as amended to January 1, ~~2021~~2023.

Section 4. That § 49-34B-13 be AMENDED:

49-34B-13. No person is subject to civil penalties under this chapter if prior civil penalties have been imposed under the United States Code, title 49, section 60101 et seq. as amended to January 1, ~~2021~~2023, for conduct that may give rise to a violation of both acts. Nothing in this chapter limits the powers of the commission, or precludes the pursuit of any other administrative, civil, injunctive, or criminal remedies by the commission or any other person. Administrative remedies need not be exhausted in order to proceed under this chapter. The remedies provided by this chapter are in addition to those provided under existing statutory or common law.

Section 5. That § 49-34B-14 be AMENDED:

49-34B-14. The commission may, to the extent authorized by agreement with the secretary of the United States Department of Transportation, act as agent for the secretary of transportation to implement the United States Code, title 49, section 60101 et seq. as amended to January 1, ~~2021~~2023, and any federal pipeline safety regulations promulgated thereto with respect to interstate gas pipelines located within this state, as necessary to obtain annual federal certification. The commission shall, to the extent authorized by federal law, inspect pipelines in the state as authorized by the provisions of this chapter.

Section 6. That § 49-34B-15 be AMENDED:

49-34B-15. The commission may seek and accept federal designation of the commission's pipeline inspectors as federal agents for the purposes of inspection pursuant to the United States Code, title 49, section 60101 et seq. as amended to January 1, ~~2021~~2023, and federal rules adopted to implement those acts. If the Department of Transportation delegates inspection authority to the state as provided in this section, the commission shall do what is necessary to carry out its delegated federal authority.

Section 7. That § 49-34B-19 be AMENDED:

49-34B-19. The commission may promulgate pipeline inspection and safety rules, pursuant to chapter 1-26, to the extent necessary to enable the state to qualify for annual federal certification to operate the federal pipeline inspection program of intrastate and interstate gas pipelines as authorized by the United States Code, title 49, section 60101 et seq. as amended to January 1, ~~2021~~2023.

Section 8. That § 49-34B-22 be AMENDED:

49-34B-22. All information reported to or obtained by the commission under this chapter that contains or relates to a trade secret referred to in United States Code, title 18, section 1905, as amended to January 1, ~~2019~~2023, or that is granted by chapter 37-29 is confidential for the purpose of that section, except that the information may be disclosed to the commission or commission employee or agent concerned with enforcing this chapter. Nothing in this section authorizes the withholding of information by the commission from a committee of the Legislature.

Signed February 9, 2023

BANKS AND BANKING

Chapter 159

(Senate Bill 43)

An Act to revise certain provisions regarding money transmission.

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

Section 1. That § 51A-17-1 be AMENDED:

51A-17-1. Terms used in this chapter mean:

(1) "Applicant," any person filing an application for a license under this chapter;

(2) "Authorized delegate," any entity designated by the licensee under the provisions of this chapter to sell or issue payment instruments or engage in the business of transmitting money on behalf of a licensee;

(3) "Controlling person," any person in control of a licensee;

(4) "Director," the director of the Division of Banking;

(5) "Division," the Division of Banking;

(6) "Electronic instrument," any card or other tangible object for the transmission or payment of money that contains a microprocessor chip, magnetic stripe, or other means for the storage of information, that is prefunded, and for which the value is decremented upon each use. The term does not include a card or other tangible object that is redeemable by the issuer in goods or services;

(7) "Executive officer," the licensee's president, chair of the executive committee, senior officer responsible for the licensee's business, chief financial officer, and any other person who performs similar functions;

(8) "Key individual," any individual ultimately responsible for establishing or directing policies and procedures of the licensee, such as an executive officer, manager, director, or trustee;

~~(8) "Key shareholder," any person, or group of persons acting in concert, who is the owner of twenty five percent or more of any voting class of an applicant's stock;~~

~~(9) "Licensee," any person licensed pursuant to this chapter;~~

~~(10) "Material litigation," any litigation that, according to generally accepted accounting principles, is deemed significant to an applicant's or licensee's financial health and would be required to be referenced in that entity's annual audited financial statements, report to shareholders, or similar documents;~~

~~(11) "Monetary value," any medium of exchange, whether or not redeemable in money;~~

~~(12) "Money transmission," engagement in the business of the sale or issuance of payment instruments or stored value or of receiving money or monetary value for transmission to a location within or outside the United States by any means;~~

~~(13) "Nationwide mortgage licensing system and registry," a licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the licensing and registration of licensed mortgage loan originators and other regulated entities;~~

~~(14) "Outstanding payment instrument," any payment instrument issued by the licensee which has been sold in the United States directly by the licensee or any payment instrument issued by the licensee which has been sold by an authorized delegate of the licensee in the United States, which has been reported to the licensee as having been sold, and which has not yet been paid by or for the licensee;~~

~~(15) "Payment instrument," any electronic or written check, draft, money order, travelers check, or other electronic or written instrument or order for the transmission or payment of money, sold or issued to one or more persons, whether or not such instrument is negotiable. The term, payment instrument, does not include any credit card voucher, any letter of credit, or any instrument which is redeemable by the issuer in goods or services;~~

~~(16) "Remit," either the direct payment of the funds to the licensee or its representatives authorized to receive those funds, or the deposit of the funds in a bank, credit union, savings and loan association, or other similar financial institution in an account specified by the licensee;~~

~~(17) "Security device," any surety bond, irrevocable letter of credit, or similar security device;~~

~~(18) "Stored value," monetary value that is evidenced by an electronic record. Stored value does not include any item that is redeemable by the issuer or its affiliates in goods or services of the issuer or its affiliates;~~

~~(19) "Tangible net worth," aggregate assets of a licensee excluding all intangible assets, less liabilities, as determined in accordance with United States generally accepted accounting principles.~~

(9) "Key shareholder," any person, or group of persons acting in concert, who is the owner of twenty-five percent or more of any voting class of an applicant's stock;

(10) "Licensee," any person licensed pursuant to this chapter;

(11) "Material litigation," any litigation that, according to generally accepted accounting principles, is deemed significant to an applicant's or licensee's financial health and would be required to be referenced in that entity's annual audited financial statements, report to shareholders, or similar documents;

(12) "Monetary value," any medium of exchange, whether or not redeemable in money;

(13) "Money transmission," engagement in the business of the sale or issuance of payment instruments or stored value or of receiving money or monetary value for transmission to a location within or outside the United States by any means;

(14) "Nationwide mortgage licensing system and registry," a licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the licensing and registration of licensed mortgage loan originators and other regulated entities;

(15) "Outstanding payment instrument," any payment instrument issued by the licensee which has been sold in the United States directly by the licensee or any payment instrument issued by the licensee which has been sold by an authorized delegate of the licensee in the United States, which has been reported to the licensee as having been sold, and which has not yet been paid by or for the licensee;

(16) "Payment instrument," any electronic or written check, draft, money order, travelers check, or other electronic or written instrument or order for the transmission or payment of money, sold or issued to one or more persons, whether or not such instrument is negotiable. The term, payment instrument, does not include any credit card voucher, any letter of credit, or any instrument which is redeemable by the issuer in goods or services;

(17) "Remit," either the direct payment of the funds to the licensee or its representatives authorized to receive those funds, or the deposit of the funds in a bank, credit union, savings and loan association, or other similar financial institution in an account specified by the licensee;

(18) "Security device," any surety bond, irrevocable letter of credit, or similar security device;

(19) "Stored value," monetary value that is evidenced by an electronic record. Stored value does not include any item that is redeemable by the issuer or its affiliates in goods or services of the issuer or its affiliates;

(20) "Tangible net worth," aggregate assets of a licensee excluding all intangible assets, less liabilities, as determined in accordance with United States generally accepted accounting principles.

Section 2. That § 51A-17-2 be AMENDED:

51A-17-2. ~~For the purposes of this chapter, the term, permissible investments, means any of the following~~The following investments are permissible under § 51A-17-10:

(1) Cash, including demand deposits, savings deposits, and funds in such accounts held for the benefit of the licensee's customers in a federally insured depository financial institution, and cash equivalents, including Automated Clearing House network items in transit to a payee, cash in transit via armored car, cash in smart safes, cash in licensee-owned locations, debit card or credit card-funded transmission receivables owed by any bank, or money market mutual funds rated "AAA" by Standard and Poor or the equivalent from any eligible rating service;

(2) Certificates of deposit or ~~other~~senior debt obligations of ~~a financial institution, either domestic or foreign~~an insured depository institution, as defined in the Federal Deposit Insurance Act, 12 U.S.C. § 1813(c)(3), as of January 1, 2023, or as defined under the federal Credit Union Act, 12 U.S.C. § 1781, as of January 1, 2023;

(3) ~~Bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as bankers' acceptances, which are eligible for purchase by member banks of the Federal Reserve System~~An obligation of the United States or a commission, agency, or instrumentality thereof; an obligation that is guaranteed fully as to principal and interest by the United States; or an obligation of a state or a governmental subdivision, agency, or instrumentality thereof;

(4) ~~Any investment bearing a rating of one of the three highest grades as defined by a nationally recognized organization that rates such securities~~The full drawable amount of an irrevocable standby letter of credit of which the stated beneficiary is the director that stipulates that the beneficiary need only draw a sight draft under the letter of credit and present it to obtain funds up to the letter of credit amount within seven days of presentation of the items required by section 5 of this Act;

(5) ~~Investment securities that are obligations of the United States, its agencies or instrumentalities, or obligations that are guaranteed fully as to principal and interest of the United States, or any obligations of any state, municipality, or any political subdivision thereof;~~One hundred percent of the security device or deposit provided for under § 51A-17-8 that exceeds the average daily money transmission liability in this state.

~~(6) Shares in a money market mutual fund, interest bearing bills or notes or bonds, debentures or stock traded on any national securities exchange or on a national over the counter market, or mutual funds primarily composed of such securities, or a fund composed of one or more permissible investments as set forth in this section;~~

~~(7) Any demand borrowing agreement or agreements made to a corporation or a subsidiary of a corporation whose capital stock is listed on a national exchange;~~

~~(8) Receivables which are due to a licensee from its authorized delegates, which are not past due or doubtful of collection; or~~

~~(9) Any other investments or security device approved by the director.~~

Section 3. That chapter 51A-17 be amended with a NEW SECTION:

For purposes of section 2 of this Act, a letter of credit must be issued by a federally insured depository financial institution, a foreign bank that is authorized under federal law to maintain a federal agency or federal branch office in a state or states, or a foreign bank that is authorized under state law to maintain a branch in a state that bears an eligible rating or whose parent company bears an eligible rating and is regulated, supervised, and examined by United States federal or state authorities having regulatory authority over banks, credit unions, and trust companies.

The letter of credit must be irrevocable, unconditional, and indicate that it is not subject to any condition or qualifications outside of the letter of credit. It must contain no reference to any other agreements, documents, or entities or otherwise provide for any security interest in the licensee.

The letter of credit must contain an issue date and expiration date and expressly provide for automatic extension, without a written amendment, for an additional period of one year from the preset or each future expiration date, unless the issuer of the letter of credit notifies the director in writing by certified or registered mail or courier mail or other receipted means, at least sixty days prior to any expiration date, that the irrevocable letter of credit will not be extended.

Section 4. That chapter 51A-17 be amended with a NEW SECTION:

In the event of any notice of expiration or non-extension of a letter of credit issued under Section 3 of this Act, the licensee shall be required to demonstrate to the satisfaction of the director, fifteen days prior to expiration, that the licensee maintains and will maintain permissible investments in accordance with § 51A-17-10 upon the expiration of the letter of credit. If the licensee is not able to do so, the director may draw on the letter of credit in an amount up to the amount necessary to meet the licensee's requirements to maintain permissible investments in accordance with § 51A-17-10. Any such draw must be offset against the licensee's outstanding money transmission obligations. The drawn funds must be held in trust by the director or the director's designated agent, to the extent authorized by law, as agent for the benefit of the purchasers and holders of the licensee's outstanding money transmission obligations.

Section 5. That chapter 51A-17 be amended with a NEW SECTION:

For purposes of section 3 of this Act, a letter of credit must provide that the issuer of the letter of credit will honor, at sight, a presentation made by the beneficiary to the issuer of the following documents on or prior to the expiration date of the letter of credit:

(1) The original letter of credit, including any amendments; and

(2) A written statement from the beneficiary stating that any of the following events have occurred:

(a) The filing of a petition by or against the licensee under the United States Bankruptcy Code, 11 U.S.C. §§ 101 to 110, as of January 1, 2023, for bankruptcy or reorganization;

(b) The filing of a petition by or against the licensee for receivership, or the commencement of any other judicial or administrative proceeding for its dissolution or reorganization;

(c) The seizure of assets of a licensee by the director pursuant to an emergency order issued in accordance with applicable law, on the basis of an action, violation, or condition that has caused or is likely to cause the insolvency of the licensee; or

(d) The beneficiary has received notice of expiration or non-extension of a letter of credit and the licensee failed to demonstrate to the satisfaction of the beneficiary that the licensee will maintain permissible investments in accordance with § 51A-17-10 upon the expiration or non-extension of the letter of credit.

Section 6. That chapter 51A-17 be amended with a NEW SECTION:

The director may designate an agent to serve on the director's behalf as a beneficiary to a letter of credit so long as the agent and letter of credit meet the requirements established by the director. The director's agent may serve as agent for multiple licensing authorities for a single irrevocable letter of credit if the proceeds of the drawable amount for the purposes of Sections 2 through 5 are assigned to the director.

Section 7. That chapter 51A-17 be amended with a NEW SECTION:

The director may participate in multistate processes designed to facilitate the issuance and administration of letters of credit, including services provided by the National Multistate Licensing System and State Regulatory Registry, L.L.C.

Section 8. That chapter 51A-17 be amended with a NEW SECTION:

Unless permitted by the director by rule or by order to exceed the limit as set forth in this section, the following investments are permissible under § 51A-17-10 to the extent specified:

(1) Receivables that are payable to a licensee from its authorized delegates in the ordinary course of business that are less than seven days old, up to fifty percent of the aggregate value of the licensee's total permissible investments. Receivables that are payable to a licensee from a single authorized delegate in the ordinary course of business may not exceed ten percent of the aggregate value of the licensee's total permissible investments;

(2) The following investments are permissible up to twenty percent per category and combined up to fifty percent of the aggregate value of the licensee's total permissible investments:

(a) A short-term investment bearing an eligible rating. For purposes of this subsection, the term, short-term investment, means an investment made in the previous six months;

(b) Commercial paper bearing an eligible rating;

(c) A bill, note, bond, or debenture bearing an eligible rating;

(d) U.S. tri-party repurchase agreements collateralized at one hundred percent or more with U.S. government or agency securities, municipal bonds, or other securities bearing an eligible rating;

(e) Money market mutual funds rated less than "AAA" and equal to or higher than "A-" by Standard & Poor or the equivalent from any other eligible rating service; and

(f) A mutual fund or other investment fund composed solely and exclusively of one or more permissible investments named in this section.

(3) Cash, including demand deposits, savings deposits, and funds in such accounts held for the benefit of the licensee's customers, at foreign depository institutions are permissible up to ten percent of the aggregate value of the licensee's total permissible investments if the licensee has received a satisfactory rating in its most recent examination, and the foreign depository institution has an eligible rating, is registered under the Foreign Account Tax Compliance Act, is not located in any country subject to sanctions from the Office of Foreign Asset Control, and is not located in a high-risk or non-cooperative jurisdiction as designated by the Financial Action Task Force.

Section 9. That § 51A-17-10 be AMENDED:

51A-17-10. ~~Each licensee under this chapter shall at all times possess permissible investments having an aggregate market value, calculated in accordance with United States generally accepted accounting principles, of not less than the aggregate face amount of all outstanding payment instruments and stored value issued or sold by the licensee in the United States. A licensee transmitting virtual currencies shall hold like-kind virtual currencies of the same volume as that held by the licensee but that is obligated to consumers, in lieu of the permissible investments otherwise required in this section. A licensee conducting money transmission activities shall maintain applicable amounts and types of permissible investments at all times. The requirements of this section may be waived by the director if the dollar volume of a licensee's outstanding payment instruments and stored value does not exceed the security devices posted by the licensee pursuant to § 51A-17-8.~~ A licensee shall maintain at all times permissible investments that have a market value computed in accordance with United States generally accepted accounting principles of not less than the aggregate amount of all of its outstanding money transmission obligations.

Except for permissible investments enumerated in section 2 of this Act, the director, with respect to any licensee, may limit the extent to which a specific investment maintained by a licensee within a class of permissible investments may be considered a permissible investment, if the specific investment represents undue risk to customers, not reflected in the market value of investments.

Permissible investments, as provided in section 2 of this Act, even if commingled with other assets of the licensee, ~~must be~~ are held in trust for the benefit of the purchasers and holders of the licensee's outstanding ~~payment instruments in the event of the bankruptcy of the licensee.~~ money transmission obligations in the event of insolvency, the filing of a petition by or against the licensee under the United States Bankruptcy Code, 11 U.S.C. §§ 101 to 110, as of January 1, 2023, for bankruptcy or reorganization, the filing of a petition by or against the licensee for receivership, the commencement of any other judicial or administrative proceeding for its dissolution or reorganization, or in the event of

an action by a creditor against the licensee who is not a beneficiary of this statutory trust. No permissible investments impressed with a trust pursuant to this section shall be subject to attachment, levy of execution, or sequestration by order of any court, except for a beneficiary of this statutory trust.

Section 10. That chapter 51A-17 be amended with a NEW SECTION:

Upon the establishment of a statutory trust in accordance with section 9 of this Act, or when any funds are drawn on a letter of credit pursuant to this section, the director shall notify the applicable regulator of each state in which the licensee is licensed to engage in money transmission, if any, of the establishment of the trust or the funds drawn on the letter of credit, as applicable. Notice is satisfied if performed pursuant to a multistate agreement or through the Nationwide Multistate Licensing System. Funds drawn on a letter of credit and any other permissible investments held in trust for the benefit of the purchasers and holders of the licensee's outstanding money transmission obligations, are deemed held in trust for the benefit of such purchasers and holders on a pro rata and equitable basis in accordance with statutes pursuant to which permissible investments are required to be held in this state and other states. Any statutory trust established under this section shall be terminated upon extinguishment of all of the licensee's outstanding money transmission obligations.

Section 11. That chapter 51A-17 be amended with a NEW SECTION:

The director may allow other types of investments that the director determines are of sufficient liquidity and quality to be a permissible investment. The director is authorized to participate in efforts with other state regulators to determine that other types of investments are of sufficient liquidity and quality to be a permissible investment.

Section 12. That chapter 51A-17 be amended with a NEW SECTION:

A licensee transmitting virtual currencies shall hold like-kind virtual currencies of the same volume as that held by the licensee but that is obligated to consumers, in lieu of the permissible investments otherwise required in this section.

Section 13. That § 51A-17-22 be AMENDED:

51A-17-22. Within fifteen business days of the occurrence of any one of the events listed in this section, a licensee shall electronically file an amendment or an advance change notice through the nationwide mortgage licensing system and registry describing the event and its expected impact on the licensee's activities in the state. The events include:

(1) Any material changes in information provided in a licensee's application or renewal report;

(2) The filing for bankruptcy or reorganization by the licensee;

(3) The institution of revocation or suspension proceedings against the licensee by any state or governmental authority with regard to the licensees' money transmission activities;

(4) Any felony indictment of the licensee or any of its ~~key~~executive officers, key individuals, or directors related to money transmission activities; and

(5) Any felony conviction of the licensee or any of its ~~key~~executive officers, key individuals, or directors related to money transmission activities.

Section 14. That chapter 51A-17 be amended with a NEW SECTION:

A licensee adding or replacing any key individual shall provide notice in a manner prescribed by the director within 15 days after the effective date of the key individual's appointment and provide information as required by §§ 51A-17-12, 51A-17-13, and 51A-17-14 within forty-five days of the effective date.

Section 15. That chapter 51A-17 be amended with a NEW SECTION:

Within ninety days of the date on which the notice provided pursuant to § 51A-17-23 was determined to be complete, the director may issue a notice of disapproval of a key individual if the competence, experience, character, or integrity of the individual would not be in the best interests of the public or the customers of the licensee to permit the individual to be a key individual of such licensee. The key individual is deemed approved if not disapproved within ninety days after the date on which the notice was determined to be complete.

A notice of disapproval shall contain a statement of the basis for disapproval and shall be sent to the licensee and the disapproved individual. A licensee may appeal a notice of disapproval pursuant to Chapter 1-26 after receipt of such notice of disapproval.

Section 16. That chapter 51A-17 be amended with a NEW SECTION:

If a multistate licensing process includes a key individual notice review and disapproval process pursuant to § 51A-17-23 and the licensee avails itself or is otherwise subject to the multistate licensing process, the director is authorized and encouraged to accept the determination of another state if the investigating state has sufficient staffing, expertise, and minimum standards for the purposes of § 51A-17-23. If South Dakota is the lead investigative state, the director is authorized and encouraged to investigate the applicant pursuant to § 51A-17-23 and the timeframes established by agreement through the multistate licensing process.

Signed February 2, 2023

CONTRACTS

Chapter 160

(House Bill 1185)

An Act to prohibit certain restrictions in employment contracts.

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

Section 1. That § 53-9-11 be AMENDED:

53-9-11. Except as otherwise provided in ~~§ 53-9-11.1~~ section 3 of this Act, an employee may agree with an employer at the time of employment or at any time during employment not to engage directly or indirectly in the same business or profession as that of the employer for any period not exceeding two years from the date of termination of the agreement and not to solicit existing customers of the employer within a specified county, first- or second-class

municipality, or other specified area for any period not exceeding two years from the date of termination of the agreement, if the employer continues to carry on a like business therein.

Section 2. That § 53-9-11.1 be AMENDED:

53-9-11.1. ~~A contract that creates or establishes the terms of employment, a partnership, or any other form of professional relationship, with a health care provider, may not restrict the right of the health care provider to:~~

~~(1) Practice or provide services for which the provider is licensed, in any geographic area and for any period of time, after the termination of the employment, partnership, or other form of professional relationship;~~

~~(2) Treat, advise, consult with, or establish a provider-patient relationship with any current patient of the employer, or with a patient affiliated with a partnership or other form of professional relationship; or~~

~~(3) Solicit or seek to establish a provider-patient relationship with any current patient of the employer, or with a patient affiliated with a partnership or other form of professional relationship.~~

~~The prohibition of this section does not apply to a contract in connection with the sale and purchase of a practice.~~

For purposes of ~~this~~ section 3 of this Act, a ~~health care provider~~ practitioner means:

(1) A physician licensed in accordance with chapter 36-4;

(2) A physician assistant licensed in accordance with chapter 36-4A;

(3) A paramedic or emergency medical technician licensed in accordance with chapter 36-4B;

(4) A respiratory care practitioner licensed in accordance with chapter 36-4C;

(5) A chiropractor licensed in accordance with chapter 36-5;

(6) A dentist licensed in accordance with chapter 36-6A;

(7) An optometrist licensed in accordance with chapter 36-7;

(8) A podiatrist licensed in accordance with chapter 36-8;

(9) A registered nurse authorized to practice in accordance with § 36-9-3;

(10) A certified registered nurse anesthetist authorized to practice in accordance with § 36-9-3.1;

(11) A licensed practical nurse authorized to practice in accordance with § 36-9-4;

(12) A certified nurse practitioner or certified nurse midwife licensed in accordance with chapter 36-9A;

~~(4) A certified nurse midwife licensed in accordance with chapter 36-9A;~~

~~(5) A certified registered nurse anesthetist authorized to practice in accordance with § 36-9-3.1;~~

~~(6) A registered nurse authorized to practice in accordance with § 36-9-3;and~~

~~(7) A licensed practical nurse authorized to practice in accordance with § 36-9-4;~~

(13) A certified professional midwife licensed under 36-9C;

(14) A physical therapist licensed in accordance with chapter 36-10;

(15) A nutritionist or dietician licensed in accordance with chapter 36-10B;

(16) A pharmacist licensed in accordance with chapter 36-11;

(17) An audiologist or hearing aid dispenser licensed in accordance with chapter 36-24;

(18) A social worker licensed in accordance with chapter 36-26;

(19) A psychologist licensed in accordance with chapter 36-27A;

(20) An athletic trainer licensed in accordance with chapter 36-29;

(21) An occupational therapist licensed in accordance with chapter 36-31;

(22) A professional counselor or a professional counselor-mental health licensed in accordance with chapter 36-32;

(23) A marriage and family therapist licensed in accordance with chapter 36-33;

(24) An addiction and prevention professional licensed or certified in accordance with chapter 36-34;

(25) A massage therapist licensed in accordance with chapter 36-35;

(26) A genetic counselor licensed in accordance with chapter 36-36;

(27) A speech language pathologist licensed in accordance with chapter 36-37; and

(28) A behavior analyst licensed in accordance with chapter 36-38.

Section 3. That chapter 53-9 be amended with a NEW SECTION:

Notwithstanding § 53-9-11, a provision of a contract, entered into on or after July 1, 2023, is voidable if it restricts a practitioner, as defined in § 53-9-11.1, from practicing or otherwise providing professional services in accordance with the applicable scope of practice, after the conclusion of the practitioner's employment or after the dissolution of a partnership or other form of professional relationship.

This section does not apply to any contractual provision that:

(1) Is effective upon the sale of a practice or interest in a practice; or

(2) Restricts a practitioner from soliciting current patients or clients of the former employer, partnership, or other professional relationship, provided the solicitation complies with the geographic and temporal limitations as referenced in § 53-9-11.

The term, soliciting, as used in this section, means a targeted affirmative act, directed toward any patient or client of the practitioner's former employer, partnership, or other professional relationship, for the purpose of convincing the patient or client to transfer the patient or client's care or business to the practitioner or to the practitioner's new employer, partner, or professional relationship.

Signed March 17, 2023

FIDUCIARIES AND TRUSTS

Chapter 161
(Senate Bill 95)

An Act to amend provisions regarding trusts.

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

Section 1. That § 21-22-18 be AMENDED:

21-22-18. The notice provided by § 21-22-17 shall be served upon fiduciaries, beneficiaries, and attorneys of record, except as otherwise provided in chapter 55-18. Notice shall be served personally, by mail, postage prepaid, addressed to each person at the last known post office address as shown by the records and files in the proceeding, or electronically in accordance with § ~~15-6-5(d)~~15-6-5(b) and applicable local rules, at least fourteen days prior to the hearing, unless and to the extent that the court for good cause shown directs a shorter period or approves a different form of notice for some or all persons.

Section 2. That chapter 55-1 be amended with a NEW SECTION:

Unless specifically restricted by the governing instrument, an enforcer may appoint an individual or a corporate fiduciary as a co-enforcer. The appointed co-enforcer may serve only as long as the appointing enforcer serves, or as long as the last to serve if more than one enforcer appointed the co-enforcer. The appointed co-enforcer may not become a successor enforcer upon the death, resignation, or incapacity of the appointing enforcer, unless appointed under the terms of the governing instrument or unless no other successor enforcer, or method for appointing a successor enforcer, is provided in the governing instrument.

The powers and the responsibilities of the appointed co-enforcer may be limited by the appointing enforcer in a writing signed by the appointing enforcer at the time of the appointment. If the powers or responsibilities are so limited, the powers or responsibilities of the co-enforcer shall be limited as set forth in writing. Unless the powers or responsibilities are so limited, the appointed co-enforcer may exercise all the powers of the appointing enforcer. The combined powers of the appointed co-enforcer and the appointing enforcer may not exceed the powers of the appointing enforcer alone. The enforcer appointing a co-enforcer may, in writing, revoke the appointment at any time, with or without cause.

Unless specifically restricted by the governing instrument, if the governing instrument gives a fiduciary other than the enforcer the power to remove and replace the enforcer, such power includes the power to appoint a co-enforcer to serve with the current enforcer.

If an appointment under this section confers upon the appointed co-enforcer, to the exclusion of another co-enforcer, the power to take certain actions, including the power to direct or prevent certain actions of the enforcers, the limitations on liability and the relief from duties and obligations afforded an excluded fiduciary under § 55-1B-2 apply to a co-enforcer who does not hold such power.

If the governing instrument is silent concerning the enforcer's power to appoint a co-enforcer, the enforcer shall notify in writing, the trustor, if living, the

current trustee or trustees, and any trust protector, trust advisors, and co-enforcers at least thirty days prior to the effective date of the enforcer's exercise of the power granted under this section. The notice, which shall include a copy of the proposed action, shall advise the trustor, the current trustee or trustees, trust protector, trust advisors, or co-enforcers that if they object to the enforcer's appointment, they need to file a written objection with the enforcer prior to the effective date set out in the notice of the proposed action. If an objection is received by the enforcer, prior to the effective date of the appointment, the enforcer may not appoint a co-enforcer. However, this section does not limit the power of the enforcer under law to petition the court for approval of the appointment. If no objection has been timely made, the proposed appointment becomes effective on the later of the date set out in the notice or thirty days after notice has been given. The notice shall be sent by any means allowed under the terms of the trust instrument or authorized in section 9 of this Act to the trustor, the current trustee or trustees, trust protector, trust advisors, or co-enforcers.

The provisions of this section are effective for trusts created before, on, or after July 1, 2023, except as otherwise directed by the trustor, current trustee or trustees, trust protector, trust advisors, or other fiduciary designated by the terms of the trust.

Section 3. That § 55-1-32 be AMENDED:

55-1-32. Pierce the veil and dominion and control claims by a party are, in essence, a variation of the alter ego common law doctrine. This section covers all of these types of claims.

In the event that a party ~~challenges~~ brings an action against a trustee, beneficiary, trust advisor, or trust protector under an alter ego claim, ~~a settlor or a beneficiary's influence over a trust,~~ none of the following factors, alone or in combination, may be considered ~~dominion and control over a trust~~ as resulting in the alter ego theory being applied to a trustee or the person who is claimed to be the alter ego:

(1) The settlor or a beneficiary serving as a trustee or a co-trustee as described in § 55-1-28;

(2) The settlor or a beneficiary holds an unrestricted power to remove or replace a trustee;

(3) The settlor or a beneficiary is a trust administrator, a general partner of a partnership, a manager of a limited liability company, an officer of a corporation, or any other managerial function of any other type of entity, and part or all of the trust property consists of an interest in the entity;

(4) A person related by blood or adoption to the settlor or a beneficiary is appointed as trustee;

(5) The settlor's or a beneficiary's agent, accountant, attorney, financial advisor, or friend is appointed as trustee;

(6) A business associate is appointed as a trustee;

(7) A beneficiary holds any power of appointment over any or all of the trust property;

(8) The settlor holds a power to substitute property of equivalent value;

(9) The trustee may loan trust property to the settlor for less than a full and adequate rate of interest or without adequate security;

(10) The distribution language provides any discretion;

(11) The trust has only one beneficiary eligible for current distributions; ~~or~~

(12) ~~The~~ A beneficiary serving as~~ a trust advisor for investments under subdivision 55-1B-1(6).~~ an investment trust advisor, as the role is defined in § 55-1B-1;

(13) Isolated occurrences where the settlor has signed checks, made disbursements, or executed other documents related to the trust as a trustee, when in fact the settlor was not a trustee;

(14) Making any requests for distributions on behalf of beneficiaries;

(15) Making any requests to the trustee to hold, purchase, or sell any trust property; or

(16) A beneficiary serving as a trust protector or a trust advisor.

Section 4. That § 55-1-33 be REPEALED:

~~Absent clear and convincing evidence, no settlor of an irrevocable trust may be deemed to be the alter ego of a trustee. The following factors by themselves or in combination are not sufficient evidence for a court to conclude that the settlor controls a trustee or is the alter ego of a trustee:~~

~~(1) Any combination of the factors listed in § 55-1-32;~~

~~(2) Isolated occurrences where the settlor has signed checks, made disbursements, or executed other documents related to the trust as a trustee, when in fact the settlor was not a trustee;~~

~~(3) Making any requests for distributions on behalf of beneficiaries;~~

~~(4) Making any requests to the trustee to hold, purchase, or sell any trust property.~~

Section 5. That chapter 55-1A be amended with a NEW SECTION:

If otherwise validly executed, the following documents may be executed in accordance with chapter 53-12:

(1) The governing instrument of an express trust, or other document, other than a will or codicil as defined in title 29A;

(2) The resignation, removal, appointment, or acceptance of appointment of any trustee, any advisor or protector, or of any designated representation addressed in title 55;

(3) A consent, release, ratification, or indemnification addressed in title 55; and

(4) Any other document addressed by title 55 to the extent it is not excluded from the scope of chapter 53-12.

Notwithstanding any provision of chapter 53-12 to the contrary, the documents under this section are deemed to be a transaction within the meaning of subdivision 53-12-1(17) and are within the scope of chapter 53-12.

Section 6. That § 55-1A-41 be AMENDED:

55-1A-41. Unless specifically restricted by the governing instrument, a trustee may appoint an individual or a corporate fiduciary as a co-trustee. The appointed co-trustee may serve only as long as the appointing trustee serves, or as long as the last to serve if more than one trustee appointed the co-trustee. The appointed co-trustee may not become a successor trustee upon the death,

resignation, or incapacity of the appointing trustee, unless appointed under the terms of the governing instrument or unless no other successor trustee, or method for appointing a successor trustee, is provided in the governing instrument.

The powers and the responsibilities of the appointed co-trustee may be limited by the appointing trustee in a writing signed by the appointing trustee at the time of the appointment. If the powers or responsibilities are so limited, the powers or responsibilities of the co-trustee shall be limited as set forth in writing. Unless the powers or responsibilities are so limited, the appointed co-trustee may exercise all the powers of the appointing trustee. The combined powers of the appointed co-trustee and the appointing trustee may not exceed the powers of the appointing trustee alone. The trustee appointing a co-trustee may, in writing, revoke the appointment at any time, with or without cause.

Unless specifically restricted by the governing instrument, if the governing instrument gives a fiduciary other than the trustee the power to remove and replace the trustee, such power includes the power to appoint a co-trustee to serve with the current trustee.

If an appointment under this section confers upon the appointed co-trustee, to the exclusion of another co-trustee, the power to take certain actions, including the power to direct or prevent certain actions of the trustees, the limitations on liability and the relief from duties and obligations afforded an excluded fiduciary under § 55-1B-2 apply to a co-trustee who does not hold such power.

If the governing instrument is silent concerning the trustee's power to appoint a co-trustee, the trustee shall notify in writing, the trustor, if living, and all current income and principal beneficiaries at least thirty days prior to the effective date of the trustee's exercise of the power granted under this section. The notice, which shall include a copy of the proposed action, shall advise the trustor and current beneficiaries that if they object to the trustee's appointment they need to file a written objection with the trustee prior to the effective date set out in the notice of the proposed action. If an objection is received by the trustee, prior to the effective date of the appointment, the trustee may not appoint a co-trustee. However, this section does not limit the power of the trustee under law to petition the court for approval of the appointment. If no objection has been timely made, the proposed appointment ~~shall go into effect~~ becomes effective on the later of the date set out in the notice or thirty days after notice has been given. The notice ~~shall~~ must be sent by any means allowed under the terms of the trust instrument, by mail with postage prepaid to the last known address of the trustor or current beneficiary, or by means otherwise allowed by law.

A governing instrument may provide for the appointment of two or more trustees and confer or allocate on one or more of the trustees, to the exclusion of other trustees, the power to direct, veto, or overrule specified actions or decisions of other trustees, or with sole responsibility for certain trustee duties. Any excluded trustee shall act in accordance with the exercise of the power, is not liable for complying with the exercise of the power, and has no obligation to review, inquire, investigate, or undertake any recommendations or evaluations with respect to the exercise of the power. A trustee having the power has the sole duty to account to the beneficiaries with respect to the exercise of the power and, if found liable for a breach of the trustee's duties with respect to the exercise of the power, is liable as if that trustee were the sole trustee.

The provisions of this section are effective for trusts created before, on, or after July 1, 2017, except as otherwise directed by the trustor, trust protector, trust advisor, or other fiduciary designated by the terms of the trust.

Section 7. That § 55-2-13 be AMENDED:

55-2-13. ~~Notification to any qualified beneficiary under this section may be carried out personally, by mail, postage prepaid, addressed to the entity or individual's last known post office address, or electronically pursuant to the provisions of § 15-6-5(d), and on representatives of qualified beneficiaries pursuant to chapter 55-18.~~

~~For purposes of this section, the term, qualified beneficiary, means a beneficiary that is an entity then in existence or an individual who is twenty-one years of age or older and who, on the date the beneficiary's qualification is determined:~~

~~(1) Is a distributee or permissible distributee of trust income or principal;~~

~~(2) Would be a distributee or permissible distributee of trust income or principal if the interests of the distributees terminated on that date; or~~

~~(3) Would be a distributee or permissible distributee of trust income or principal if the trust terminated on that date. However, if the distributee is then unknown because a person holds a power to change the distributee, the trustee shall give notice only to the holder of the power.~~

(1) Except as otherwise provided by the terms of a trust instrument governing a revocable trust and subject to § 55-2-14, a trustee has no duty to notify the qualified beneficiaries of the trust's existence.

(2) Except as otherwise provided by the terms of a trust instrument governing an irrevocable trust or otherwise directed in writing by the ~~settlor~~ trustor, trust advisor, or trust protector, the trustee shall~~,~~:

(a) Notify the qualified beneficiaries of the trust's existence and of the right of the qualified beneficiary to request a copy of the trust instrument pertaining to the qualified beneficiary's interest in the trust within sixty days after the trustee has accepted trusteeship of the trust, or within sixty days after the date the trustee acquires knowledge that a formerly revocable trust has become irrevocable;~~, notify the qualified beneficiaries of the trust's existence and of the right of the beneficiary to request a copy of the trust instrument pertaining to the beneficiary's interest in the trust.~~

~~For purposes of this section, the terms, trust advisor and trust protector, have the same meanings as those defined in § 55-1B-1.~~

~~Except as otherwise provided by the terms of an irrevocable trust or otherwise directed in writing by the settlor, trust advisor, or trust protector, a trustee of an irrevocable trust:~~

~~(1) Upon request of a qualified beneficiary, shall~~

(b) ~~promptly~~Promptly furnish to the qualified beneficiary a copy of the trust instrument upon request by the qualified beneficiary; and

~~(2) If notification of the trust has not been accomplished pursuant to this section within sixty days after accepting a trusteeship, shall notify the qualified beneficiaries of the acceptance and of the trustee's name, address, and telephone number;~~

~~(3)~~(c) ~~Shall promptly~~Promptly respond to a qualified beneficiary's request for information related to the administration of the trust, unless the request is unreasonable under the circumstances.

(3) The ~~settlor~~ trustor, trust advisor, or trust protector, may, by the terms of the governing instrument, or by providing written directions to the trustee, expand, restrict, eliminate, or otherwise modify the rights of beneficiaries to information relating to a trust. Unless otherwise stated in the governing instrument, the direction of the trustor controls in the event of a conflict among written directions provided to the trustee pursuant to this section. The trustee incurs no liability for a loss or otherwise for relying upon the written directions, including an instance when the governing instrument of an irrevocable trust does not expressly authorize an expansion, restriction, or other modification of the rights of beneficiaries to information relating to a trust. ~~The written directions remain effective until or unless the settlor, trust advisor, or trust protector who provided the written directions revokes the written directions by providing a writing to that effect to the trustee or the trustee receives notification that the settlor, trust advisor, or trust protector who provided the written directions is incapacitated. Additionally, the written directions remain in effect only while the trust advisor or trust protector providing the written directions is serving as the current trust advisor or trust protector. Unless otherwise specifically provided in the written directions, upon the death or incapacity of a settlor who provided the written directions described in this section, the directions shall be deemed revoked. However, upon the death or incapacity of the settlor, a trust advisor or trust protector, if any, may further direct the trustee in writing pursuant to this section. Unless otherwise stated in the governing instrument, the direction of the settlor shall control in the event of a conflict among written directions provided to the trustee pursuant to this section.~~

The terms of a trust instrument governing an irrevocable trust or written directions provided pursuant to this section may expand, restrict, eliminate, or otherwise vary the right of a beneficiary to be informed of the beneficiary's interest in a trust indefinitely or for a period of time, ~~including~~ for example:

~~(1)~~(a) A period of time related to the age of a beneficiary;

~~(2)~~(b) A period of time related to the lifetime of either a ~~settlor~~ trustor or spouse of a ~~settlor~~ trustor, or both;

~~(3)~~(c) A period of time related to a term of years or specific date; and

~~(4)~~(d) A period of time related to a specific event that is certain to occur.

(4) The terms of the governing instrument or written directions provided pursuant to this section may authorize either the ~~settlor~~ trustor, trust advisor, or trust protector to appoint a representative as provided in subdivisions 55-18-9 (11) and (12) for the purpose of being informed, on behalf of the beneficiary, of the beneficiary's interest in a trust for the period of time that the right of a beneficiary to be informed about a beneficiary's interest is restricted or eliminated pursuant to this section.

(5) The written directions of the trustor, whether made in the governing instrument or by separate written directions made pursuant to the governing instrument or this section, control and remain in effect upon the death of the trustor until or unless modified or revoked by a trust advisor or trust protector as permitted by the governing instrument or the trustor's written directions in effect at the time of the trustor's death. Subject to subsection (3), the written directions of a trust advisor or trust protector remain in effect until or unless a trust advisor or trust protector revokes the written directions by providing a writing to that effect to the trustee.

(6) ~~A~~Any beneficiary may waive the right to the notice or information otherwise required to be furnished under this section and, with respect to future reports and other information, may withdraw a waiver previously given.

~~The change in the identity of a trustee, occurring as the result of a mere name change or a merger, consolidation, combination, or reorganization of a trustee, does not require notice.~~

(7) ~~If a fiduciary is bound by a duty of confidentiality with respect to a trust or its assets,~~ Before providing information to any qualified beneficiary, a fiduciary may require that any such qualified beneficiary ~~or beneficiaries who is eligible to receive information pursuant to this section~~ be bound by the same duty of confidentiality that binds the fiduciary ~~trustee before receiving such information from the trustee~~. If trust information is sought through service of a subpoena on a fiduciary, the fiduciary may petition the court for an order that makes disclosure of trust information contingent upon the receiving party being bound by reasonable conditions to ensure the protection of confidentiality of trust information by the receiving party.

(8) The change in the identity of a trustee, occurring as the result of a mere name change or a merger, consolidation, combination, or reorganization of a trustee, does not require notice.

(9) For the purposes of this section, the term, qualified beneficiary, means a beneficiary that is an entity then in existence or an individual who is twenty-one years of age or older and who, on the date the beneficiary's qualification is determined:

(a) Is a distributee or permissible distributee of trust income or principal;

(b) Would be a distributee or permissible distributee of trust income or principal if the interests of the distributees terminated on that date; or

(c) Would be a distributee or permissible distributee of trust income or principal if the trust terminated on that date.

However, if the distributee is then unknown because a person holds a power to change the distributee, the trustee shall give notice only to the holder of the power.

(10) For purposes of this section, the term, trust advisor, and the term, trust protector, are defined as provided in § 55-1B-1.

~~A trust advisor, trust protector, or other fiduciary designated by the terms of the trust shall keep each excluded fiduciary designated by the terms of the trust reasonably informed about:~~

~~(1) The administration of the trust with respect to any specific duty or function being performed by the trust advisor, trust protector, or other fiduciary to the extent that the duty or function would normally be performed by the excluded fiduciary or to the extent that providing such information to the excluded fiduciary is reasonably necessary for the excluded fiduciary to perform its duties; and~~

~~(2) Any other material information that the excluded fiduciary would be required to disclose to the qualified beneficiaries under this section regardless of whether the terms of the trust relieve the excluded fiduciary from providing such information to qualified beneficiaries. Neither the~~

~~performance nor the failure to perform of a trust advisor, trust protector, or other fiduciary designated by the terms of the trust as provided in this subdivision shall affect the limitation on the liability of the excluded fiduciary.~~

(11) The provisions of this section are effective for trusts created, amended, or restated after June 30, 2002, except as otherwise directed by the ~~settlor~~ trustor, trust protector, trust advisor, or other fiduciary designated by the terms of the trust. For trusts created before July 1, 2002, a trustee has no duty at common law or otherwise to notify a qualified beneficiary of the trust's existence unless otherwise directed by the ~~settlor~~ trustor. The provisions of this paragraph do not apply if otherwise directed by the ~~settlor~~ trustor, trust protector, trust advisor, or other fiduciary designated by the terms of the trust.

Section 8. That chapter 55-2 be amended with a NEW SECTION:

A trust advisor, trust protector, or other fiduciary designated by the terms of the trust shall keep each excluded fiduciary designated by the terms of the trust reasonably informed about:

(1) The administration of the trust with respect to any specific duty or function being performed by the trust advisor, trust protector, or other fiduciary to the extent that the duty or function would normally be performed by the excluded fiduciary or to the extent that providing such information to the excluded fiduciary is reasonably necessary for the excluded fiduciary to perform its duties; and

(2) Any other material information that the excluded fiduciary would be required to disclose to the qualified beneficiaries, regardless of whether the terms of the trust relieve the excluded fiduciary from providing such information to the qualified beneficiaries pursuant to § 55-2-13.

The limitation of the liability of the excluded fiduciary is not affected by the performance of the actions required above or the failure of a trust advisor, trust protector, or other fiduciary designated pursuant to the terms of the governing instrument, to perform any such actions.

Section 9. That chapter 55-2 be amended with a NEW SECTION:

Except as otherwise provided by chapter 21-22, § 55-4-58, or by the terms of a governing instrument, and in addition to the methods of notice allowed or mandated by title 15, notice to beneficiaries and other persons interested in a trust pursuant to § 55-2-13 or otherwise may be carried out by means of any of the following methods:

(1) By delivery to the person, to the person's last known address, or to an address supplied by the person;

(2) By U.S. mail, postage prepaid, addressed to the person at the person's last known address, or to an address supplied by the person;

(3) By facsimile to a facsimile number of such person;

(4) By electronic communication, as defined by subdivision 55-19-1(12); or

(5) By posting on or sending to an electronic network or site accessible via the internet, mobile application, computer, mobile device, tablet, or any other electronic device, together with separate notice of the posting provided to the person in conformity with subdivisions (1), (2), (3), or (4) of this section.

Section 10. That § 55-3-28 be AMENDED:

55-3-28. On petition by a trustee or beneficiary, the court may reform the terms of the trust, based upon a showing by the preponderance of the evidence and without any preliminary showing of an ambiguity, to conform to the trustor's intention if the failure to conform was due to a mistake of fact or law or a scrivener's error and the trustor's intent can be established. The terms of the trust may be construed or modified, in a manner that does not violate the trustor's probable intention, to achieve the trustor's tax objectives.

Section 11. That § 55-3-45 be AMENDED:

55-3-45. If a trust is not subject to court supervision under chapter 21-22, and if no objection has been made by a distribution beneficiary, as defined in this title, of a trust within one hundred eighty days after a copy of the trustee's accounting has been ~~mailed, postage prepaid, to the last known address of such distribution beneficiary, personally, or electronically~~ provided in accordance with ~~§ 15-6-5(d)~~ section 9 of this Act, the distribution beneficiary is deemed to have approved such accounting of the trustee, and the trustee, absent fraud, intentional misrepresentation, or material omission, shall be released and discharged from any and all liability to all beneficiaries of the trust as to all matters set forth in such accounting. Alternatively, the trustee's accounting may be approved on behalf of all beneficiaries by a trust advisor or trust protector, or in accordance with § 55-18-9 if:

(1) Notice or information to the beneficiaries has been waived or modified in accordance with § 55-2-13; or

(2) Authorized under the terms of the governing instrument.

The provisions of chapter 55-18 apply to this section.

For purposes of this section, the term, accounting, means any interim or final report or other statement provided by a trustee reflecting all transactions, receipts, and disbursements during the reporting period and a list of assets as of the end of the period covered by the report or statement, and including written notice to the distribution beneficiary of the provisions of this section.

Section 12. That § 55-15-1 be AMENDED:

55-15-1. Terms used in this chapter mean:

(1) "Disinterested person," any person who is not a related or subordinate party, as defined in ~~section~~ 26 U.S.C. § 672(c) ~~of the Internal Revenue Code (26 U.S.C. section 1, et seq.)~~, as amended and in effect on January 1, 2023, with respect to the person then acting as trustee of the trust and excludes the trustor of the trust and any interested trustee;

(2) "Income trust," any trust, created by either an inter vivos or a testamentary instrument, which directs or permits the trustee to distribute the net income of the trust to one or more persons, whether at fixed intervals or from time to time, either in fixed proportions or in amounts or proportions determined by the trustee. However, no trust that otherwise is an income trust may qualify pursuant to this subdivision, if it is subject to taxation under ~~I.R.C. section~~26 U.S.C. § 2001 or ~~section~~26 U.S.C. § 2501, as amended and in effect on January 1, 2023, until the expiration of the period for filing the return therefor (including extensions);

(3) "Interested distributee," any person to whom distributions of income or principal can currently be made who has the power to remove the existing trustee and designate as successor a person who may be a related or

subordinate party, as defined in ~~I.R.C. section~~26 U.S.C. § 672(c), as amended and in effect on January 1, 2023, with respect to such distributee;

(4) "Interested trustee~~,~~:"

~~(i) any~~(a) Any individual trustee to whom the net income or principal of the trust can currently be distributed or would be distributed if the trust were then to terminate and be distributed~~, or~~;

~~(ii) any~~(b) Any trustee who may be removed and replaced by an interested distributee~~, or~~;

~~(iii) any~~(c) Any individual trustee whose legal obligation to support a beneficiary may be satisfied by distributions of income and principal of the trust~~,~~; or

~~(iv) any~~(d) Any of the above;

(5) "Total return unitrust," any income trust which has been converted under and meets the provisions of this chapter;

(6) "Trustee," all persons acting as trustee of the trust, except where expressly noted otherwise, whether acting in their discretion or on the direction of one or more persons acting in a fiduciary capacity;

(7) "Trustor," any individual who created an inter vivos or a testamentary trust;

(7A) "Unitrust," a trust, the terms of which require or permit distribution of a unitrust amount, without regard to whether the trust has been converted to a unitrust in accordance with this chapter or whether the trust is established by express terms of the governing instrument;

(8) "Unitrust amount," an amount equal to a percentage of a unitrust's assets that may or are required to be distributed to one or more beneficiaries annually in accordance with the terms of the unitrust. The unitrust amount may be determined by reference to the net fair market value of the unitrust's assets as of a particular date each year or as an average determined on a multiple year basis;

(9) "Current valuation year," the accounting period of the trust for which the unitrust amount is being determined;

(10) "Prior valuation year," each of the two accounting periods of the trust immediately preceding the current valuation year; ~~and~~

(11) "I.R.C.," the Internal Revenue Code (26 U.S.C. section 1, et seq.)~~.~~; and

(12) "Net income," the amount of income of the trust for the taxable year described in 26 U.S.C. § 643(b), as amended and in effect on January 1, 2023, as income when not preceded by the words, taxable, distributable net, undistributed net, or gross, otherwise known as the trust accounting income of a trust.

Section 13. That § 55-15-8 be AMENDED:

55-15-8. Following the conversion of an income trust to a total return unitrust, the trustee:

(1) Shall treat the unitrust amount as ~~if it were~~ the net income of the trust for purposes of determining the amount available, from time to time, for distributions from the trust; and

(2) May allocate to trust income for each taxable year of the trust (or portions thereof):

~~(i) net~~(a) Net short-term capital gain described in ~~I.R.C. section~~26 U.S.C. § 1222(5), as amended and in effect on January 1, 2023, for such year (or portion thereof) but only to the extent that the amounts so allocated together with all other amounts allocate to trust income for such year (or portion thereof) does not exceed the unitrust amount for such year (or portion thereof); and

~~(ii) net~~ (b) Net long-term capital gain described in ~~I.R.C. section~~26 U.S.C. § 1222(7), as amended and in effect on January 1, 2023, for such year (or portion thereof) but only to the extent that the amount so allocated together with all other amounts, including amounts described in ~~clause (i)~~ subsection (a) above, allocated to trust income for such year (or portion thereof) does not exceed the unitrust amount for such year (or portion thereof).

Section 14. That § 55-15-9 be AMENDED:

55-15-9. In administering a total return unitrust, the trustee may, in its sole discretion but subject to the provisions of the governing instrument, determine:

(1) The effective date of the conversion;

(2) The timing of distributions during the year, if any, ~~(~~including provisions for prorating ~~a~~ distributions for a short year ~~in which a beneficiary' right to payments commences or ceases)~~ when the effective date of a conversion takes place during the year;

(3) Whether distributions are to be made in cash or in kind or partly in cash and partly in kind;

(4) If the trust is reconverted to an income trust, the effective date of such reconversion; and

(5) Such other administrative issues as may be necessary or appropriate to carry out the purposes of this chapter.

Section 15. That § 55-15-10 be AMENDED:

55-15-10. Conversion to a total return unitrust under the provisions of this chapter does not affect any other provisions of the governing instrument, if any, regarding distributions of principal or the standards for distributions of income.

Section 16. That § 55-18-1 be AMENDED:

55-18-1. Terms used in this chapter mean:

(1) "Bind" or "bound," to consent, receive notice or service of process, approve, agree, object, resist, waive, or demand for or as a person with the same binding and conclusive effect as if the person represented had;

(2) "Conflict of interest," a situation in which a representative's interest in the trust causes a significant likelihood that a reasonable person would disregard a representative's duty to a represented beneficiary. A conflict of interest, however, excludes:

~~(i) any~~(a) Any adversity, conflict or opposed interests substantially unrelated to the representative's interest in the trust;

~~(ii) any~~(b) Any past situation which is not likely to re-occur; and

~~(iii) any~~(c) Any conflict of interest which falls short of a material conflict of interest;

(3) "Co-representative," more than one simultaneously acting representative of the same class pursuant to § 55-18-9, as when co-guardians are acting:

(4) "Conservator," a person appointed pursuant to chapter 29A-5 or equivalent provisions of another jurisdiction's laws including a temporary conservator, a guardian ad litem, and a limited conservator;

(5) "Fiduciary," a person defined by subdivision 21-22-1(3), except as used in § 55-18-17;

(6) "Guardian," a person appointed pursuant to chapter 29A-5 or equivalent provisions of another jurisdiction's laws including a temporary guardian and a limited guardian;

(7) "Incapacitated" or "incapacity," lacking the capacity to meaningfully understand the matter in question because of a mental or physical impairment;

(8) "Interest," a beneficial interest as defined by subdivision 55-1-24(1) but including the holder of a power of appointment, and any power to remove or replace a fiduciary or a representative;

(9) "Interested beneficiary," a person who, on the date the person's qualification is determined:

(a) Is a current distributee or permissible distributee of trust income or principal;

(b) Would be a distributee or permissible distributee of trust income or principal if the interests of the current distributees terminated on that date;

(c) Would be a distributee or permissible distributee of trust income or principal if the trust terminated on that date;

(d) Holds a power of appointment; or

(e) Would hold a power of appointment if the interests of the current distributees terminated on that date or the interests of the persons currently holding a power of appointment under this subdivision terminated on that date;

(10) "Knows" or "knowingly," actual knowledge of the fact in question;

(11) "Minor," any person who has not attained the age of eighteen. The term includes a minor with an incapacity;

(12) "Nonjudicial settlement," an agreement, release, or other action whether or not approved by a court, which may include, without limitation:

(a) The interpretation or construction of the terms of a trust;

(b) The approval of any fiduciary's report or accounting;

(c) Direction to any fiduciary to refrain from performing a particular act or the grant to a fiduciary of any necessary or desirable power;

(d) The resignation or appointment of any fiduciary;

(e) The determination of a fiduciary or a representative's

compensation;

(f) The transfer of a trust's principal place of administration or situs;

(g) The liability of any fiduciary's action or omission relating to a trust;

(h) Partial or final settlement agreements regarding a trust or its administration; or

(i) The modification, amendment, reformation, or termination of a trust;

(13) "Notice" or "notifies," notice provided ~~personally, by mail, postage prepaid, addressed to the person's last known post office address, or electronically~~ in accordance with ~~§ 15-6-5(d)~~ section 9 of this Act;

(14) "Notifier," a person who is undertaking notice or proposing consent with regard to a matter concerning a trust;

(15) "Power of appointment," a power defined by § 55-1-12;

(16) "Proceeding," any judicial or nonjudicial trust proceeding, accounting, termination, modification, reformation, decanting, settlement, nonjudicial settlement, and any proceeding conducted pursuant to chapter 21-22 or title 29A which concerns a trust;

(17) "Protected person," a person other than a minor for whom a guardian or conservator is appointed;

(18) "Reasonably available," with respect to a person, that the person can be identified and located with the exercise of reasonable diligence;

(19) "Representative," a person who may bind another person pursuant to § 55-18-9;

(20) "Trust," an express inter vivos or testamentary trust; and

(21) "Uninterested beneficiary," a beneficiary other than an interested beneficiary.

Signed February 27, 2023

INSURANCE

Chapter 162

(Senate Bill 62)

An Act to amend provisions regarding delivery of electronic insurance documents.

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

Section 1. That § 58-1-27 be AMENDED:

58-1-27. Terms used in §§ 58-1-27 to 58-1-39, inclusive, mean:

~~(1) "Delivered by electronic means,":~~

~~(a) Delivery to an electronic mail address at which a party has consented to receive notices or documents; or~~

~~(b) Posting on an electronic network or site accessible via the internet, mobile application, computer, mobile device, tablet, or any other electronic device, together with separate notice to a party directed to the electronic mail address at which the party consents to receive notice of the posting;~~

~~(2) "Party," any recipient of any notice or document required as part of an insurance transaction, including an applicant, an insured, a policyholder, or an annuity contract holder.~~

"Covered employee," an individual participating in a group health plan who is entitled to notices and documents and who is an employee of the sponsor or policyholder of the group health plan;

(2) "Covered person," an individual participating in a group health plan who is entitled to notices and documents;

(3) "Delivered by electronic means:"

(a) Delivery to an electronic mail address at which a party has consented to receive notices or documents; or

(b) Posting on an electronic network or site accessible via the internet, mobile application, computer, mobile device, tablet, or any other electronic device, together with separate notice to a party directed to the electronic mail address at which the party consents to receive notice of the posting;

(4) "Party," any recipient of any notice or document required as part of an insurance transaction, including an applicant, a covered employee, a covered person, an insured, a policyholder, or an annuity contract holder; and

(5) "Smart device," an electronic device that combines a cell phone with a hand-held computer and that offers internet access and text or electronic mail capabilities.

Section 2. That chapter 58-1 be amended with a NEW SECTION:

Notwithstanding § 58-1-30, a sponsor or policyholder of a group health plan may consent to notices and documents delivered by electronic means, unless there is a federal requirement for a specific mode of delivery, on behalf of the sponsor or policyholder's covered employees and covered persons.

Section 3. That chapter 58-1 be amended with a NEW SECTION:

For consent to be effective under section 2 of this Act, the sponsor or policyholder must:

(1) Assign each covered employee for whom consent is being given an electronic mail address for employment-related purposes at which the employee may receive or access notifications regarding posted notices and documents delivered by electronic means or require each employee for whom consent is being given to provide the sponsor or policyholder with an electronic mail address or a smart device number at which the employee may receive or access notifications regarding posted notices and documents delivered by electronic means;

(2) Require each covered person, or a covered employee on behalf of a covered person, to provide the sponsor or policyholder with an electronic mail address or a smart device number at which the person may receive or access notifications regarding notices and documents delivered by electronic means;

(3) Provide a notification in paper form, containing the elements described in section 4 of this Act, to each covered employee and covered person for whom consent is being given prior to delivery by electronic means of notices and documents; and

(4) Provide notice, in the manner described in section 5 of this Act, to each impacted covered employee and covered person, at the electronic mail address or smart device number designated pursuant to subdivision (2), prior to each time a notice or document is posted on an internet site.

Section 4. That chapter 58-1 be amended with a NEW SECTION:

The paper form notification, as described in section 3 of this Act, must:

(1) Notify the covered employee or covered person that notices and documents for the group health plan will be posted to an internet site to which the covered employee or covered person will have reasonable access;

(2) Confirm the electronic mail address or smart device number to which notifications regarding notice and documents will be delivered by electronic means to the covered employee or person;

(3) Provide instructions for accessing notices or documents on the internet site;

(4) Provide the time period during which a specific type of notice or document delivered by electronic means will remain accessible;

(5) Advise the covered employee or covered person that a paper form of a notice or document may be requested free of charge and of the process to request a paper form;

(6) Advise the covered employee or covered person of the right to opt out of delivery by electronic means and the process to exercise that right free of charge; and

(7) Notify the covered employee or covered person of the hardware or software requirements needed to access or retain a notice or document from an internet site.

Section 5. That chapter 58-1 be amended with a NEW SECTION:

The notice, as described in section 3 of this Act, may be delivered by electronic means to the covered employee's or covered person's designated electronic mail address or smart device number and must contain:

(1) A prominent statement that important information regarding the group health plan has been posted on the internet site;

(2) The name of or a description of the notice or document;

(3) The internet site address or a hyperlink at which the notice or document may be accessed;

(4) A statement of the recipient's right to request the notice or document in paper form at no charge and the process to exercise that right;

(5) A statement of the recipient's right to opt out of delivery by electronic means and to receive documents in paper form free of charge;

(6) The time period during which the notice or document will remain accessible on the internet site; and

(7) A telephone number for the insurer or the group health plan administrator.

Signed March 6, 2023

Chapter 163

(Senate Bill 22)

An Act to streamline examination reports.

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

Section 1. That § 58-3-12 be AMENDED:

58-3-12. No later than sixty days following completion of the examination, the examiner in charge shall file with the division a written report of examination under oath. Upon receipt of the report, the division shall transmit the report to the company examined. The company may make a written submission or rebuttal with respect to any matters contained in the examination report within thirty days of transmittal of the report.

Within thirty days of ~~the end of the period allowed for the~~ receipt of written submissions or rebuttals, if any, the director shall fully consider and review the report, together with any written submissions or rebuttals and any relevant portions of the examiner's work papers, and enter an order:

(1) Adopting the examination report as filed or with modification or corrections. If the examination report reveals that the company is operating in violation of any law, regulation or prior order of the director, the director may order the company to take any action the director considers necessary and appropriate to cure the violation;

(2) Rejecting the examination report with directions to the examiners to reopen the examination for purposes of obtaining additional data, documentation, or information, and refiling pursuant to the procedures in subdivision (1) for the initial report; or

(3) Calling for an investigatory hearing with no less than twenty days' notice to the company for purposes of obtaining additional documentation, data, information, and testimony.

Signed February 2, 2023

Chapter 164
(House Bill 1088)

An Act to update requirements for an insurance company seeking to do business in this state.

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

Section 1. That § 58-6-13 be AMENDED:

58-6-13. No foreign insurance company may be admitted to do business in the State of South Dakota until it has fully complied with the following requirements, in addition to such other requirements as may be specifically provided:

(1) Such company shall have had two continuous calendar years of operating experience as of the date of application to do business in this state; and

(2) Shall have been examined within the ~~thirty-six~~sixty months next preceding the date of application to do business in this state; and

(3) Shall fully satisfy any retaliatory requirements imposed by the laws and regulations which the applying company's state of incorporation imposes upon South Dakota insurance companies seeking admission to such state.

Subdivisions (1) and (2) do not apply to a company which is a wholly owned subsidiary, or which is the successor in interest, through merger or consolidation, of an insurer which is an authorized insurer in this state or to a company which satisfies the director that it is in fact a continuation of an older organization. The director may waive the provisions of subdivisions (1) and (2) if a special need or circumstance, as determined by the director, can be demonstrated.

Signed February 22, 2023

Chapter 165
(House Bill 1012)

An Act to repeal the annual grievance reporting requirements for health carriers.

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

Section 1. That § 58-17I-5 be REPEALED:

~~Each health carrier shall submit to the director, at least annually, a report in the format specified by the director. The report shall include for each type of health benefit plan offered by the health carrier:~~

~~(1) The certificate of compliance required by § 58-17I-6;~~

~~(2) The number of covered lives;~~

~~(3) The total number of grievances;~~

~~(4) The number of grievances resolved at each level, if applicable, and their resolution;~~

~~(5) The number of grievances appealed to the director of which the health carrier has been informed;~~

~~(6) The number of grievances referred to alternative dispute resolution procedures or resulting in litigation; and~~

~~(7) A synopsis of actions being taken to correct problems identified. (SL 2012, ch 239, § 1 provides: "The provisions of chapter 219 of the 2011 Session Laws shall be deemed repealed if the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, 124 Stat. 119 (2010), as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, 124 Stat. 1029 (2010) is found to be unconstitutional in its entirety by a final decision of a federal court of competent jurisdiction and all appeals exhausted or time for appeals elapsed.")~~

Section 2. That § 58-17I-6 be AMENDED:

58-17I-6. Except as specified in this chapter, each health carrier shall use written procedures for receiving and resolving grievances from covered persons, as provided in §§ 58-17I-7 to 58-17I-11, inclusive. If a health carrier fails to strictly adhere to the requirements of §§ 58-17I-7 to 58-17I-10, inclusive, or §§ 58-17I-12 to 58-17I-15, inclusive, with respect to receiving and resolving grievances involving an adverse determination, the covered person shall be deemed to have exhausted the provisions of this chapter, and may take action regardless of whether the health carrier asserts that the carrier substantially complied with the requirements of §§ 58-17I-7 to 58-17I-10, inclusive, or §§ 58-17I-12 to 58-17I-15, inclusive, or that any error the carrier committed was de minimus.

A covered person may file a request for external review in accordance with rules promulgated by the director. In addition a covered person is entitled to pursue any available remedies under state or federal law on the basis that the health carrier failed to provide a reasonable internal claims and appeals process that would yield a decision on the merits of the claim.

A health carrier shall file with the director a copy of the procedures required under this section, including all forms used to process requests made pursuant to §§ 58-17I-7 to 58-17I-11, inclusive. Any subsequent material modifications to the documents also shall be filed. The director may disapprove a filing received in accordance with this section that fails to comply with this chapter, or applicable rules. ~~In addition, a health carrier shall file annually with the director, as part of its annual report required by §§ 58-17I-4 and 58-17I-5, a certificate of compliance stating that the health carrier has established and maintains, for each of its health benefit plans, grievance procedures that fully comply with the provisions of this chapter.~~A description of the grievance procedures required under this section shall be set forth in or attached to the policy, certificate, membership booklet, outline of coverage, or other evidence of coverage provided to covered persons. The grievance procedure documents shall include a statement of a covered person's right to contact the Division of Insurance for assistance at any time. The statement shall include the telephone number and address of the Division of Insurance. (SL 2012, ch 239, § 1 provides: "The provisions of chapter 219 of the 2011 Session Laws shall be deemed repealed if the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, 124 Stat. 119 (2010), as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152,

124 Stat. 1029 (2010) is found to be unconstitutional in its entirety by a final decision of a federal court of competent jurisdiction and all appeals exhausted or time for appeals elapsed.")

Signed February 9, 2023

Chapter 166

(House Bill 1135)

An Act to provide for transparency in the pricing of prescription drugs.

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

Section 1. That § 58-29E-1 be AMENDED:

58-29E-1. Terms used in this chapter mean:

(1) ~~"Covered entity," a nonprofit hospital or medical service corporation, health insurer, health benefit plan, or health maintenance organization; a health program administered by a department or the state in the capacity of provider of health coverage; or an employer, labor union, or other group of persons organized in the state that provides health coverage to covered individuals who are employed or reside in the state. The term does not include a self-funded plan that is exempt from state regulation pursuant to ERISA, a plan issued for coverage for federal employees, or a health plan that provides coverage only for accidental injury, specified disease, hospital indemnity, medicare supplement, disability income, long-term care, or other limited benefit health insurance policies and contracts;~~"Brand name," the same as set forth in § 36-11-2;

(2) "Covered individual," a member, participant, enrollee, contract holder, policy holder, or beneficiary of a ~~covered entity~~ third-party payor who is provided health coverage by the ~~covered entity~~ third-party payor. The term includes a dependent or other ~~person~~ individual provided health coverage through a policy, contract, or plan for a covered individual;

(3) ~~"Director," the director of the Division of Insurance;~~

~~(4)~~ "Generic drug," a chemically equivalent copy of a brand– name drug with an expired patent;

~~(5) "Labeler," an entity or person that receives prescription drugs from a manufacturer or wholesaler and repackages those drugs for later retail sale and that has a labeler code from the federal Food and Drug Administration under 21 C.F.R. § 270.20 (1999);~~

(4) "Health benefit plan," the same as set forth in § 58-17F-2;

(5) "Health carrier," the same as set forth in § 58-17F-1;

(6) "Interchangeable biological product," the same as set forth in § 36-11-2;

(7) "Maximum allowable cost," the maximum amount that a pharmacy may be reimbursed, as set by a pharmacy benefit manager or a third-party payor, for a brand name or a generic drug, an interchangeable biological product, or any other prescription drug and which may include:

(a) The average acquisition cost;

(b) The national average acquisition cost;

(c) The average manufacturer price;

(d) The average wholesale price;

(e) The brand effective rate;

(f) The generic effective rate;

(g) Discount indexing;

(h) Federal upper limits;

(i) The wholesale acquisition cost; and

(j) Any other term used by a pharmacy benefit manager or a health carrier to establish reimbursement rates for a pharmacy;

(8) "Maximum allowable cost list," a list of prescription drugs that:

(a) Includes the maximum allowable cost for each prescription drug; and

(b) Is used, directly or indirectly, by a pharmacy benefit manager;

(9) "Pharmaceutical manufacturer," any person engaged in the business of preparing, producing, converting, processing, packaging, labeling, or distributing a prescription drug, but not including a wholesale distributor or dispenser;

(10) "Pharmacist," the same as set forth in § 36-11-2;

(11) "Pharmacy,"

~~(a) Is licensed by the State Board of Pharmacy, in accordance with chapter 36-11;~~

~~(b) Is located within or outside of this state; and~~

~~(c) Provides for the dispensing of drugs and rendering of pharmaceutical care to residents of this state~~ the same as set forth in § 36-11-2;

~~(6)~~(12) "Pharmacy ~~benefits~~ benefit management," the procurement of prescription drugs at a negotiated rate for dispensation within this state to covered individuals, the administration or management of prescription drug benefits provided by a ~~covered entity~~ third-party payor for the benefit of covered individuals, or any of the following services provided with regard to the administration of ~~the following~~ pharmacy benefits:

(a) Mail service pharmacy;

(b) Claims processing, retail network management, and payment of claims to pharmacies for prescription drugs dispensed to covered individuals;

(c) Clinical formulary development and management services;

(d) Rebate contracting and administration;

(e) Certain patient compliance, therapeutic intervention, and generic substitution programs; and

(f) Disease management programs involving prescription drug utilization;

~~(7)~~(13) "Pharmacy benefit management fee," a fee that covers the cost of providing pharmacy benefit management, but does not exceed the value of the service performed by the pharmacy benefit manager;

(14) "Pharmacy ~~benefits~~ benefit manager," ~~an entity~~ a person that performs pharmacy ~~benefits~~ benefit management~~. The term~~, pursuant to a contract or other relationship with a third-party payor and includes ~~a~~:

(a) A person ~~or entity~~ acting ~~for a pharmacy benefits manager~~ in a contractual or employment relationship ~~in the performance of~~ for a pharmacy benefit manager while providing pharmacy ~~benefits~~ benefit management for a ~~covered entity~~ third party payor; and ~~includes mail~~

(b) A mail service pharmacy~~. The term does not include a health carrier licensed pursuant to Title 58 when the health carrier or its subsidiary is providing pharmacy benefits management to its own insureds; or a public self-funded pool or a private single employer self-funded plan that provides such benefits or services directly to its beneficiaries~~;

~~(8)~~(15) "Pharmacy benefit manager affiliate," a pharmacy that, or a pharmacist who, directly or indirectly, through one or more intermediaries, owns or controls, is owned and controlled by, or is under common ownership or control of, a pharmacy benefit manager;

(16) ~~(a) The amount charged or claimed by the pharmacy benefit manager in a format that allows the division to identify all instances of spread pricing; and~~

~~(b) Information regarding shared ownership interest, by any person defined in this section;~~

"Pharmacy network," pharmacies that have contracted with a pharmacy benefit manager to dispense or sell prescription drugs to covered individuals under a health benefit plan for which the prescription drug benefit is managed by a pharmacy benefit manager;

(17) "Prescription drug," a drug classified by the United States Food and Drug Administration as requiring a prescription by a health care practitioner, prior to being administered or dispensed to a patient, and including interchangeable biological products, brand names, and generic drugs;

(18) "Prescription drug benefit," a health benefit plan providing third-party payment or prepayment for prescription drugs;

(19) "Prescription drug order," the same as set forth in § 36-11-2;

(20) "Proprietary information," information on pricing, costs, revenue, taxes, market share, negotiating strategies, customers, and personnel held by a private ~~entities~~ entity and used for that private entity's business purposes;

~~(9)~~(21) "Rebate," a discount or other negotiated price concession that is paid directly or indirectly to a pharmacy benefit manager by a pharmaceutical manufacturer or by an entity in the prescription drug supply chain, other than a covered individual, and which is:

(a) Based on a pharmaceutical manufacturer's list price for a prescription drug;

(b) Based on utilization;

(c) Designed to maintain, for the pharmacy benefit manager, a net

price for a prescription drug, during a specified period of time, in the event the pharmaceutical manufacturer's list price increases; or

(d) Based on estimates regarding the quantity of a prescribed drug that will be dispensed by a pharmacy to covered individuals;

(22) "Spread pricing," an amount charged or claimed by a pharmacy benefit manager that is in excess of the ingredient cost for a dispensed prescription drug, plus a dispensing fee paid directly or indirectly to a pharmacy, pharmacist, or other provider, on behalf of the third-party payor, less a pharmacy benefit management fee;

(23) "Third-party payor," any entity, other than a covered individual, a covered individual's representative, or a healthcare provider, which is responsible for any amount of reimbursement for a prescription drug benefit, provided the term includes a health carrier and a health benefit plan;

(24) "Trade secret," ~~information, including a formula, pattern, compilation, program, device, method, technique, or process, that:~~

~~(a) Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and~~

~~(b) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy~~ the same as set forth in § 37-29-1;

(25) "Unaffiliated pharmacy," a dispensing pharmacy that is not:

(a) Owned, in whole or in part, by a pharmacy benefit manager;

(b) A subsidiary of a pharmacy benefit manager; or

(c) An affiliate of a pharmacy benefit manager; and

(26) "Wholesale distributor,"

~~(a) A manufacturer;~~

~~(b) A manufacturer's co-licensed partner;~~

~~(c) A repackager; or~~

~~(d) A third-party logistics provider~~ the same as set forth in § 36-11A-25.

Section 2. That § 58-29E-2 be AMENDED:

58-29E-2. ~~No~~ A person ~~or entity~~ may ~~perform or~~ not act as a pharmacy ~~benefits~~ benefit manager in this state without a ~~valid~~ license to operate as a third party administrator pursuant to chapter 58-29D. Sections 58-29D-26, 58-29D-27, and 58-29D-29 do not apply to pharmacy benefits managers.

Section 3. That § 58-29E-3 be AMENDED:

58-29E-3. Each pharmacy ~~benefits~~ benefit manager shall perform its duties ~~exercising~~ in good faith and with fair dealing toward the ~~covered entity~~ third-party payor.

Section 4. That § 58-29E-4 be AMENDED:

58-29E-4. A ~~covered entity~~ third-party payor may request that ~~any~~ a pharmacy ~~benefits~~ benefit manager, with which it has a pharmacy ~~benefits~~ benefit management services contract, disclose to the ~~covered entity,~~ third-party payor the amount of all rebate revenues and the nature, type, and amounts of all other revenues that the pharmacy ~~benefits~~ benefit manager receives from each pharmaceutical manufacturer ~~or labeler~~ with ~~whom~~ which the pharmacy ~~benefits~~ benefit manager has a contract. ~~The~~

Annually, at the time of contract renewal, the pharmacy ~~benefits~~ benefit manager shall disclose in writing:

(1) The aggregate amount, and for a list of drugs to be specified in the contract, the specific amount, of all rebates and other retrospective utilization discounts that are received by the pharmacy ~~benefits~~ benefit manager, directly or indirectly, from each pharmaceutical manufacturer ~~or labeler that~~, and which are earned in connection with the dispensing of prescription drugs to covered individuals of the health benefit plans issued by the ~~covered entity~~ third-party payor or for which the ~~covered entity~~ third-party payor is the designated administrator;

(2) The nature, type, and amount of all other revenue received by the pharmacy ~~benefits~~ benefit manager, directly or indirectly, from each pharmaceutical manufacturer ~~or labeler~~, for any other products or services, provided to the pharmaceutical manufacturer ~~or labeler~~ by the pharmacy ~~benefits~~ benefit manager, with respect to programs that the ~~covered entity~~ third-party payor offers or provides to its ~~enrollees~~ covered individuals; and

(3) Any prescription drug utilization information requested by the ~~covered entity~~ third-party payor and relating to covered individuals.

A pharmacy ~~benefits~~ benefit manager shall, within thirty days, provide ~~such~~ the information requested ~~by the covered entity for such disclosure within thirty days of receipt of the request~~ in accordance with this section.

If requested, the information ~~shall~~ must be provided no less than once each year.

The contract entered into between the pharmacy ~~benefits~~ benefit manager and the ~~covered entity shall~~ third-party payor must set forth any fees to be charged for drug utilization reports requested by the ~~covered entity~~ third-party payor.

Section 5. That § 58-29E-5 be AMENDED:

58-29E-5. A pharmacy ~~benefits~~ benefit manager, unless authorized pursuant to the terms of its contract with a ~~covered entity~~ third-party payor, may not contact any covered individual, without the express written permission of the ~~covered entity~~ third-party payor.

Section 6. That § 58-29E-6 be AMENDED:

58-29E-6. Except for utilization information, a ~~covered entity~~ third-party payor shall maintain ~~any~~ information disclosed in response to a request ~~pursuant to~~ under § 58-29E-4 as confidential and proprietary information, and may not use ~~such~~ that information for any other purpose or disclose ~~such~~ that information to any other person, except as provided in this chapter or in the pharmacy ~~benefits~~ benefit management services contract between the parties.

~~Any covered entity who~~ A third-party payor that discloses information, in violation of this section, is subject to an action for injunctive relief and is liable for any damages ~~which~~ that are the direct and proximate result of ~~such~~ the disclosure.

Nothing in this section prohibits a ~~covered entity~~ third-party payor from disclosing confidential or proprietary information to the director, upon request. ~~Any such information~~ Information obtained by the director in accordance with this section is confidential and privileged, and is not open to public inspection or disclosure.

Section 7. That § 58-29E-7 be AMENDED:

58-29E-7. ~~The covered entity may have the pharmacy benefits manager's books and records related to the rebates or other information described in subdivisions 58-29E-4(1), (2), and (3), to the extent the information relates directly or indirectly to such covered entity's contract, audited in accordance with the terms of the pharmacy benefits management services contract between the parties. However, if the parties have not expressly provided for audit rights and the pharmacy benefits manager has advised the covered entity that other reasonable options are available and subject to negotiation, the covered entity may have such books and records audited as follows:~~

~~(1) Such audits may be conducted no more frequently than once in each twelve-month period upon not less than thirty business days' written notice to the pharmacy benefits manager;~~

~~(2) The covered entity may select an independent firm to conduct such audit, and such independent firm shall sign a confidentiality agreement with the covered entity and the pharmacy benefits manager ensuring that all information obtained during such audit will be treated as confidential. The firm may not use, disclose, or otherwise reveal any such information in any manner or form to any person or entity except as otherwise permitted under the confidentiality agreement. The covered entity shall treat all information obtained as a result of the audit as confidential, and may not use or disclose such information except as may be otherwise permitted under the terms of the contract between the covered entity and the pharmacy benefits manager or if ordered by a court of competent jurisdiction for good cause shown;~~

~~(3) Any such audit shall be conducted at the pharmacy benefits manager's office where such records are located, during normal business hours, without undue interference with the pharmacy benefits manager's business activities, and in accordance with reasonable audit procedures.~~

A third-party payor that has contracted with a licensed pharmacy benefit manager may audit the pharmacy benefit manager once each calendar year. The audit authorized by this section is in addition to any other statutory or contractual audit rights. As part of the audit, a third-party payor may request:

(1) All reimbursements paid to retail pharmacies, on a claim level, for all customers of the pharmacy benefit manager in this state, including ancillary charges, claw backs, dispensing fees, drug-specific reimbursements, other fees, rebates, and reimbursement adjustments;

(2) Differences in reimbursement amounts paid to affiliated and unaffiliated pharmacies, including differences in dispensing fees and reimbursed ingredient costs;

(3) Historical claims data, including:

(a) Acquisition costs;

(b) Administrative fees associated with claims;

(c) Amounts paid by a covered individual;

(d) Amounts paid by a third-party payor;

(e) Channels, whether mail or retail;

(f) Dispensing fees;

(g) Formulary tiers;

(h) Ingredient costs;

(i) Ingredient quantity;

(j) Sales tax;

(k) Supply availability by the number of days; and

(l) Usual and customary prices; and

(4) Aggregate rebate amounts, received by calendar quarter, directly or indirectly from manufacturers, including rebates from other entities affiliated with or related to the pharmacy benefit manager, if those entities negotiate or contract with manufacturers.

A pharmacy benefit manager shall, within thirty days, provide the information requested in accordance with this section, together with a certification, signed by the chief executive officer or the chief financial officer of the pharmacy benefit manager, attesting to the accuracy and completeness of the information.

Section 8. That chapter 58-29E be amended with a NEW SECTION:

Except as provided in chapter 58-17K, and in accordance with the audit provisions in § 58-29E-7, a third-party payor that has contracted with a licensed pharmacy benefit manager may not publish, or directly or indirectly disclose:

(1) Any information that reveals the identity of a specific third-party payor or manufacturer;

(2) Prices charged for a specific drug or class of drugs;

(3) The amount of any rebates provided for a specific drug or class of drugs; or

(4) Any information that has the potential to compromise the financial, competitive, or proprietary nature of the pharmacy benefit manager's business.

The information referenced in § 58-29E-7 is protected from disclosure as confidential and proprietary. The information is privileged and not open to public inspection or disclosure.

A third-party payor that has contracted with a licensed pharmacy benefit manager shall impose the confidentiality protections set forth in § 58-29E-7 on any vendor or third party that may receive or have access to the information.

Section 9. That § 58-29E-8 be AMENDED:

58-29E-8. ~~With regard to the dispensation of a substitute prescription drug for a prescribed drug to a covered individual, when the pharmacy benefits manager requests a substitution, the following provisions apply:~~

~~(1) The~~ A pharmacy ~~benefits~~ benefit manager may request ~~the substitution of~~ that a lower-priced generic and therapeutically equivalent

prescription drug be dispensed to a covered individual, as a substitute for a higher-priced ~~prescribed~~ prescription drug~~;~~

~~(2) With regard to substitutions in which~~,

If the substitute prescription drug's net cost is ~~more~~ higher for the covered individual or the ~~covered entity~~ third-party payor than the originally prescribed drug, the substitution ~~must~~ may be made only for medical reasons that benefit the covered individual.

If a substitution is being requested pursuant to this ~~subdivision~~ section, the pharmacy ~~benefits~~ benefit manager ~~shall~~ must obtain the approval of the prescribing health professional.

Nothing in this section permits the substitution of an equivalent drug product contrary to § 36-11-46.2.

Section 10. That § 58-29E-8.1 be AMENDED:

58-29E-8.1. A pharmacy ~~benefits~~ benefit manager may neither prohibit a pharmacist or pharmacy from, nor penalize a pharmacist or pharmacy for ~~providing cost-sharing information on the amount a covered individual may pay for a particular~~, informing a covered individual about:

(1) The cost of a prescription drug;

(2) The amount of reimbursement that the pharmacy will receive for dispensing the prescription drug;

(3) The cost and clinical efficacy of a more affordable alternative prescription drug, if one is available; and

(4) Any differential between the amount a covered individual would pay under the covered individual's prescription drug benefit and a lower price the covered individual would pay for the prescription drug, if the covered individual obtained the prescription drug without making a claim for benefits on the covered individual's prescription drug benefit.

Section 11. That § 58-29E-10 be AMENDED:

58-29E-10. ~~Any covered entity~~ A third-party payor may bring a civil action to enforce ~~the provisions of~~ this chapter or ~~to~~ seek civil damages for ~~the~~ a violation of ~~its provisions~~ this chapter.

Section 12. That § 58-29E-12 be AMENDED:

58-29E-12. ~~No~~ A pharmacy benefit manager ~~shall~~ may not contractually require a pharmacy~~, who~~ that is a participating provider in a health benefit plan provided by a ~~covered entity, to charge or collect~~ third-party payor, from charging a covered individual or collecting from ~~an insured~~ a covered individual a cost share for a prescription drug or pharmacy service that exceeds the amount retained by the pharmacist or pharmacy from all payment sources, for ~~the~~ filling ~~of~~ the prescription or providing the pharmacy service.

Section 13. That § 58-29E-13 be AMENDED:

58-29E-13. ~~No~~ A pharmacy benefit manager ~~contracting with a covered entity shall~~ may not, directly or indirectly, retroactively adjust a claim for reimbursement submitted by a pharmacy for a prescription drug, unless ~~the adjustment is a result of either of the following~~:

(1) ~~A~~ The adjustment is necessitated by a pharmacy audit conducted in accordance with chapter 58-29F; ~~or~~

(2) ~~A~~ The adjustment is necessitated by a technical billing error;

(3) The original claim was found to have been fraudulently submitted; or

(4) The claim submission was a duplicate for which the pharmacy had already received payment.

Section 14. That chapter 58-29E be amended with a NEW SECTION:

A pharmacy benefit manager may not assess, charge, or collect, from a pharmacy or pharmacist, any remuneration or fee, including:

(1) An accreditation fee;

(2) A brand effective rate fee;

(3) A claim processing fee;

(4) A credentialing fee;

(5) A dispensing fee;

(6) An effective rate fee;

(7) A generic effective rate fee;

(8) A pharmacy network participation fee; and

(9) A performance-based fee.

Section 15. That chapter 58-29E be amended with a NEW SECTION:

Prior to placing a prescription drug on a maximum allowable cost list, a pharmacy benefit manager shall ensure that the prescription drug is:

(1) Listed as therapeutically and pharmaceutically equivalent in the latest edition of, or any supplement to, the Food and Drug Administration's publication entitled Approved Drug Products with Therapeutic Equivalence Evaluations, as adopted by the State Board of Pharmacy, in rules promulgated pursuant to chapter 1-26;

(2) Not obsolete or temporarily unavailable; and

(3) Available for purchase, without limitation, by every pharmacy in this state, from a national or regional wholesale distributor licensed in this state.

Section 16. That chapter 58-29E be amended with a NEW SECTION:

A pharmacy benefit manager shall:

(1) Provide each pharmacy in a pharmacy network with reasonable access to each maximum allowable cost list to which the pharmacy is subject;

(2) Update a maximum allowable cost list, within seven calendar days from the date of any increase, at or above ten percent, in the price charged for a prescription drug on the list by one or more wholesale distributors doing business in this state;

(3) Update the maximum allowable cost list, within seven calendar days from the date of any change in the methodology, or any change in the value of a variable applied in the methodology, on which the maximum allowable cost list is based; and

(4) Provide a process under which each pharmacy in a pharmacy network may receive prompt notice of any change in a maximum allowable cost list to which the pharmacy is subject.

Section 17. That chapter 58-29E be amended with a NEW SECTION:

A pharmacy benefit manager may not reimburse any pharmacy located in this state an amount that is less than that which the pharmacy benefit manager reimburses a pharmacy benefit manager affiliate for dispensing the same prescription drug as that dispensed by the pharmacy.

The reimbursement amount must be calculated on a per unit basis, using the same generic product identifier or generic code number.

Section 18. That chapter 58-29E be amended with a NEW SECTION:

A pharmacy benefit manager licensed under this chapter shall, at the request of the Division of Insurance, provide:

(1) The amount charged or claimed by the pharmacy benefit manager, in a format that allows the division to identify all instances of spread pricing; and

(2) Information regarding a shared ownership interest by any person defined in § 58-29E-1.

Section 19. That chapter 58-29E be amended with a NEW SECTION:

In addition to any grounds set forth in § 58-29D-31, the director may deny a pharmacy benefit manager's application for an initial or a renewed license, and may suspend or revoke a pharmacy benefit manager's license, if the director determines that the pharmacy benefit manager, or an applicant for a license, failed to provide information as required by this chapter.

Section 20. That § 58-29E-11 be REPEALED:

~~The provisions of this chapter apply only to pharmacy benefits management services contracts entered into or renewed after June 30, 2004.~~

Signed March 23, 2023

Chapter 167

(Senate Bill 85)

An Act to revise rebating provisions in the insurance code.

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

Section 1. That chapter 58-33 be amended with a NEW SECTION:

Nothing in this chapter may be construed as including within the definition of discrimination or rebates, the offer or provision by insurers or producers, by or through employees, affiliates, or third-party representatives, of value-added products or services at no or reduced cost when the products or services are not specified in the policy of insurance if the value-added product or service:

(1) Relates to the policy of insurance;

(2) Is primarily designed to satisfy one or more of the following:

(a) Provide loss mitigation or loss control;

(b) Reduce claim costs or claim settlement costs;

(c) Provide education about liability risks or risk of loss to persons or property;

(d) Monitor or assess risk, identify sources of risk, or develop strategies for eliminating or reducing risk;

(e) Enhance health;

(f) Enhance financial wellness through items such as education or financial planning services;

(g) Provide post-loss services;

(h) Incent behavioral changes to improve the health or reduce the risk of death or disability of a consumer; or

(i) Assist in the administration of the employee or retiree benefit insurance coverage;

(3) Has a cost to the insurer or producer offering the value-added product or service that is reasonable compared to the consumer's premiums or insurance coverage for the contract class;

(4) Is accompanied with contact information regarding the value-added product or service at the time of offering or enrollment to assist the consumer with questions; and

(5) Is based on documented objective criteria and offered in a manner that is not unfairly discriminatory, the documentation criteria of which is maintained by the insurer or producer and available upon request by the division.

Section 2. That chapter 58-33 be amended with a NEW SECTION:

If an insurer or producer does not have sufficient evidence but has a good faith belief that the value-added product or service meets the criteria in subdivisions (2) and (5) of section 1 of this Act, the insurer or producer may provide the product or service in a manner that is not unfairly discriminatory as part of a pilot or testing program for no more than one year. An insurer or producer must notify the division of such a pilot or testing program offered to consumers in this state before beginning the program and may proceed with the program unless the division objects within twenty-one days of the notice.

Section 3. That chapter 58-33 be amended with a NEW SECTION:

An insurer or producer may conduct raffles or drawings to the extent permitted by state law as long as there is no financial cost to entrants to participate, the drawing or raffle does not obligate participants to purchase insurance, the prizes are not valued in excess of a reasonable amount as determined by the director, and the drawing or raffle is open to the public. The raffle or drawing must be offered in a manner that is not unfairly discriminatory. The consumer may not be required to purchase, continue to purchase, or renew a policy in exchange for the gift, item, or service.

Section 4. That chapter 58-33 be amended with a NEW SECTION:

An insurer, producer, or representative of an insurer or a producer, may

not offer or provide insurance as an inducement to the purchase of another policy or otherwise use the word, free, or the phrase, no cost, or words and phrases of a similar meaning, in any advertisement.

Section 5. That chapter 58-33 be amended with a NEW SECTION:

The director shall promulgate rules pursuant to chapter 1-26 regarding the permitted practices in sections 1 to 4 of this Act, inclusive, to ensure consumer protection, consumer data protections and privacy, consumer disclosure, standard forms, definition of terms, and to prevent unfair discrimination.

Signed February 22, 2023

Chapter 168

(House Bill 1091)

An Act to amend provisions of the insurance statutes regarding producer recommendations and responsibilities.

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

Section 1. That § 58-33A-13 be AMENDED:

58-33A-13. Terms used in §§ 58-33A-14 to 58-33A-27, inclusive, mean:

(1) "Annuity," an annuity that is an insurance product under state law that is individually solicited, whether the product is classified as an individual or group annuity;

(2) "Cash compensation," any discount, concession, fee, service fee, commission, sales charge, loan, override, or cash benefit received by a producer in connection with the recommendation or sale of an annuity from an insurer, intermediary, or directly from the consumer;

(3) "Consumer profile information," information that is reasonably appropriate to determine whether a recommendation addresses the consumer's financial situation, insurance needs, and financial objectives, including, at a minimum, the following:

(a) Age;

(b) Annual income;

(c) Financial situation and needs, including debts and other obligations;

(d) Financial experience;

(e) Insurance needs;

(f) Financial objectives;

(g) Intended use of the annuity;

(h) Financial objectives;

(i) Existing assets or financial products, including investment, annuity and insurance holdings;

(j) Liquidity needs;

(k) Liquid net worth;

(l) Risk tolerance, including but not limited to, willingness to accept non-guaranteed elements in the annuity;

(m) Financial resources used to fund the annuity; and

(n) Tax status;

(4) "FINRA," the Financial Industry Regulatory Authority or a succeeding agency;

(5) "Intermediary," an entity contracted directly with an insurer or with another entity contracted with an insurer to facilitate the sale of the insurer's annuities by producers;

(6) "Material conflict of interest," a financial interest of the producer in the sale of an annuity that a reasonable person would expect to influence the impartiality of a recommendation. Material conflict of interest does not include cash compensation or non-cash compensation;

(7) "Non-cash compensation," any form of compensation that is not cash compensation including health insurance, office rent, office support, and retirement benefits;

(8) "Non-guaranteed elements," the premiums, credited interest rates including any bonus, benefits, values, dividends, non-interest based credits, charges, or elements of formulas used to determine any of these, that are subject to company discretion and are not guaranteed at issue. An element is considered non-guaranteed if any of the underlying non-guaranteed elements are used in its calculation;

(9) "Producer," a person or entity required to be licensed under the laws of this state to sell, solicit or negotiate insurance, including annuities. This term also includes an insurer where no producer is involved;

(10) "Recommendation," advice provided by a producer to an individual consumer that was intended to result or results in a purchase, replacement, or exchange of an annuity in accordance with that advice. This term does not include general communication to the public, generalized customer services assistance or administrative support, general educational information and tools, prospectuses, or other product and sales material. The term does not include presentation of illustrations or showing multiple products to educate and explain to the consumer the options available;

(11) "Replacement," a transaction in which a new annuity is to be purchased, and it is known or should be known to the proposing producer, or to the proposing insurer whether or not a producer is involved, that by reason of the transaction, an existing annuity or other insurance policy has been or is to be any of the following:

(a) Lapsed, forfeited, surrendered, partially surrendered, assigned to the replacing insurer, or otherwise terminated;

(b) Converted to reduced paid-up insurance, continued as extended term insurance, or otherwise reduced in value by the use of nonforfeiture benefits or other policy values;

(c) Amended so as to effect either a reduction in benefits or in the term for which coverage would otherwise remain in force or for which benefits would be paid;

(d) Reissued with any reduction in cash value; or

(e) Used in a financed purchase; and

(12) "SEC," the United States Securities and Exchange Commission.

Section 2. That § 58-33A-16 be AMENDED:

58-33A-16. A producer, when making a recommendation of an annuity, shall act in the best interest of the consumer under the circumstances known at the time the recommendation is made, without placing the producer's or the insurer's financial interest ahead of the consumer's interest. For purposes of this section, a producer has acted in the best interest of the consumer by satisfying the obligations regarding care in §§ 58-33A-16.1 to 58-33A-16.3, inclusive, disclosure in §§ 58-33A-16.4 to 58-33A-16.6, inclusive, conflict of interest in § 58-33A-16.7, and documentation in § 58-33A-19.2. Any requirement applicable to a producer under §§ 58-33A-13 to 58-33A-27, inclusive, must apply to every producer who has exercised material control or influence in the making of a recommendation and has received direct compensation as a result of the recommendation or sale, regardless of whether the producer has had any direct contact with the consumer. Activities such as providing or delivering marketing or educational materials, product wholesaling or other back-office product support, and general supervision of a producer do not, in and of themselves, constitute material control or influence.

The following acts, when considered in isolation, do not constitute material control or influence:

(1) Receipt of override commissions;

(2) Transmittal of documents, including application to insurers; and

(3) Providing illustrations and quotes.

Section 3. That § 58-33A-16.1 be AMENDED:

58-33A-16.1. Producers must, in making a recommendation:

(1) Exercise reasonable diligence, care, and skill to:

(a) Know the consumer's financial situation, insurance needs, and financial objectives;

(b) Understand the available recommendation options after making a reasonable inquiry into options available to the producer;

(c) Have a reasonable basis to believe the recommended option effectively addresses the consumer's financial situation, insurance needs, and financial objectives over the life of the product as evaluated in light of the consumer profile information; and

(d) Communicate the basis or bases of the recommendation;

(2) Make reasonable efforts to obtain consumer profile information from the consumer prior to the recommendation of an annuity;

(3) Consider the types of products the producer is authorized and licensed to recommend or sell that address the consumer's financial situation, insurance needs, and financial objectives. This does not require analysis

or consideration of any products outside the authority and license of the producer or other possible alternative products or strategies available in the market at the time of the recommendation. A producer is not considered to be authorized for a product if the producers have no access to that product. ~~Producers~~ The producer must be held to standards applicable to producers with similar authority and licensure; and

(4) Have a reasonable basis to believe the consumer would benefit from certain features of the annuity, such as annuitization, death or living benefit, or other insurance-related features.

Factors generally relevant in making a determination whether an annuity effectively addresses the consumer's financial situation, insurance needs, and financial objectives include the consumer profile information, characteristics of the insurer, product costs, rates, benefits, and features. The level of importance of each factor in this section may vary depending on the facts and circumstances of a particular case, but each factor may not be considered in isolation.

Section 4. That § 58-33A-16.7 be AMENDED:

58-33A-16.7. A producer shall identify and avoid or reasonably manage and disclose material conflicts of interest, including material conflicts of interest related to an ownership interest. The following factors, when considered in isolation, are not material conflicts of interest:

(1) The producer has a minority ownership in an insurer or licensed business entity;

(2) The producer has a majority ownership in a licensed business entity, if the ownership is conspicuously disclosed to the consumer; or

(3) An immediate family member is employed by a licensed business entity.

Signed February 22, 2023

AGENCY

Chapter 169

(House Bill 1189)

An Act to require certain entities owning agricultural land to report foreign beneficial ownership interests.

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

Section 1. That § 59-11-24 be AMENDED:

59-11-24. Each filing entity or qualified foreign entity, except a bank organized under § 51A-3-1.1, a limited partnership organized pursuant to chapter 48-7, or a series of a limited liability company established under §§ 47-34A-701 through 47-34A-707, shall deliver to the Office of the Secretary of State for filing an annual report that sets forth:

(1) The name of the filing entity or qualified foreign entity;

(2) The jurisdiction under whose law it is formed;

(3) The address of its principal office, wherever located;

(4) The information required by § 59-11-6; ~~and~~

(5) The names and business addresses of its governors except in the following two cases:

(a) If a business corporation has eliminated its board of directors pursuant to § 47-1A-732, the annual report shall set forth the names of the shareholders instead; and

(b) If a limited liability company is member-managed, the names and business addresses of its governors need not be set forth; and

(6) Whether the entity owns any agricultural land, as defined in § 43-2A-1, and, if so, whether the entity has any foreign beneficial owners.

Information in the annual report must be current as of the date the annual report is executed on behalf of the filing entity or qualified foreign entity. Any other provisions of law notwithstanding, the annual report may be executed by any authorized person. Any amendment filed is a supplement to, and not in place of, the annual filing required by this section.

Section 2. That § 59-11-24.1 be AMENDED:

59-11-24.1. In addition to filing an annual report pursuant to § 59-11-24, a filing entity may include in its annual report a statement of voluntary disclosure of other beneficial interests.

Section 3. That chapter 59-11 be amended with a NEW SECTION:

Terms used in § 59-11-24 and this section mean:

(1) "Foreign beneficial owner," a foreign government, a natural person who is not a United States citizen, an entity registered outside the United States or its territories, or an entity owned by a foreign government or natural person who is not a United States citizen; and

(2) "Foreign government," a government or the state-controlled enterprise of a government, other than the United States, its states, or its territories.

Signed March 8, 2023

Chapter 170

(Senate Bill 42)

An Act to modify power of attorney requirements for certain vehicle transfer authorizations.

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

Section 1. That chapter 59-12 be amended with a NEW SECTION:

With respect to a vehicle for which title is to be transferred to an insurer, a power of attorney to make application for or to assign a certificate of title is exempt from the notarization requirements under § 59-12-4. A principal may

satisfy the signature requirement provided under § 59-12-4 for a power of attorney described in this section by electronic signature.

Signed March 9, 2023

REEMPLOYMENT ASSISTANCE

Chapter 171

(House Bill 1011)

An Act to revise employer contribution rates.

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

Section 1. That § 61-5-25 be AMENDED:

61-5-25. If an employer has met the requirements of § 61-5-24 on the computation date for the year, then the employer's contribution rate shall be the rate appearing in Column "A" on the same line the employer's reserve ratio appears in Column "B" of the rate schedule applicable to that year. The computation date for calendar year 2012 and each year thereafter is June thirtieth of the preceding year.

The rate schedule for each calendar year shall be determined based upon the South Dakota average high cost multiplier ratio. The average high cost multiplier ratio is calculated by dividing the amount in the unemployment compensation fund, as established by § 61-4-1, as of June thirtieth of the preceding year, by the amount required in the unemployment compensation fund that equals the average high cost multiple of 1.0, as of December thirty-first of the last completed calendar year. The following rate schedules apply:

(1) From January 1, 2018, to December 31, 2023, inclusive:

(a) Schedule A is in effect for any calendar year when the South Dakota average high cost multiplier ratio is less than 1.60; and

(b) Schedule B is in effect for any calendar year when the South Dakota average high cost multiplier ratio is greater than or equal to 1.60.

(2) Beginning January 1, 2024:

(a) Schedule A is in effect for any calendar year when the South Dakota average high cost multiplier ratio is less than 1.30;

(b) Schedule B is in effect for any calendar year when the South Dakota average high cost multiplier ratio is less than 1.50 and greater than or equal to 1.30; and

(c) Schedule C is in effect for any calendar year when the South Dakota average high cost multiplier ratio is greater than or equal to 1.50.

For purposes of this section, the term, average high cost multiple, has the same meaning given in~~Code of Federal Regulations, title 20, section 606.3~~ 20

C.F.R. § 606.3, as amended on September 17, 2010. An amount equal to an average high cost multiple of 1.0 is a federal measure of adequate reserves in relation to the state's current economy.

Section 2. That § 61-5-25.5 be AMENDED:

61-5-25.5. The employer's reserve ratio for calendar year 2020 ~~and each year thereafter~~ to end of calendar year 2023 is the result of the balance of credits existing in the employer's experience-rating account as of June thirtieth preceding the year the rate is to be calculated, divided by the total taxable payroll of the employer for the preceding three fiscal years. The employer's experience-rating account balance for the purpose of this section is the balance on July thirty-first of the year preceding the year rates are calculated and is the difference between the contributions paid through July thirty-first and the benefits paid through the preceding June thirtieth.

Column "A"		Column "B"
Contribution Rate		Reserve Ratio
Schedule A	Schedule B	
9.45%	9.30%	Less than -7.00%
8.95%	8.80%	-7.00% and Less than -6.50%
8.45%	8.30%	-6.50% and Less than -6.00%
7.95%	7.80%	-6.00% and Less than -5.50%
7.45%	7.30%	-5.50% and Less than -5.00%
6.95%	6.80%	-5.00% and Less than -4.50%
6.45%	6.30%	-4.50% and Less than -4.00%
5.95%	5.80%	-4.00% and Less than -3.50%
5.45%	5.30%	-3.50% and Less than -3.00%
4.95%	4.80%	-3.00% and Less than -2.50%
4.45%	4.30%	-2.50% and Less than -2.00%
3.95%	3.80%	-2.00% and Less than -1.50%
3.45%	3.30%	-1.50% and Less than -1.00%
2.95%	2.80%	-1.00% and Less than -0.75%
2.45%	2.30%	-0.75% and Less than -0.50%
1.95%	1.80%	-0.50% and Less than -0.25%
1.45%	1.30%	-0.25% and Less than 0.00%
0.95%	0.80%	0.00% and Less than 0.50%
0.70%	0.55%	0.50% and Less than 0.75%
0.55%	0.40%	0.75% and Less than 1.00%
0.35%	0.20%	1.00% and Less than 1.25%
0.25%	0.10%	1.25% and Less than 1.50%
0.15%	0.00%	1.50% and Less than 1.75%
0.05%	0.00%	1.75% and Less than 2.25%
0.00%	0.00%	2.25% and Over

The contribution rates provided in this section apply to taxable wages paid on and after January 1, 2020, to December 31, 2023, inclusive.

Section 3. That chapter 61-5 be amended with a NEW SECTION:

The employer's reserve ratio for calendar year 2024 and each year thereafter is the result of the balance of credits existing in the employer's experience-rating account as of June thirtieth preceding the year the rate is to be calculated, divided by the total taxable payroll of the employer for the preceding three fiscal years. The employer's experience-rating account balance for the purpose of this section is the balance on July thirty-first of the year preceding the year rates are calculated and is the difference between the contributions paid through July thirty-first and the benefits paid through the preceding June thirtieth.

Column "A" Contribution Rate			Column "B" Reserve Ratio
Schedule A	Schedule B	Schedule C	
9.45%	9.30%	8.80%	Less than -7.00%
8.95%	8.80%	8.30%	-7.00% and Less than -6.50%
8.45%	8.30%	7.80%	-6.50% and Less than -6.00%
7.95%	7.80%	7.30%	-6.00% and Less than -5.50%
7.45%	7.30%	6.80%	-5.50% and Less than -5.00%
6.95%	6.80%	6.30%	-5.00% and Less than -4.50%
6.45%	6.30%	5.80%	-4.50% and Less than -4.00%
5.95%	5.80%	5.30%	-4.00% and Less than -3.50%
5.45%	5.30%	4.80%	-3.50% and Less than -3.00%
4.95%	4.80%	4.30%	-3.00% and Less than -2.50%
4.45%	4.30%	3.80%	-2.50% and Less than -2.00%
3.95%	3.80%	3.30%	-2.00% and Less than -1.50%
3.45%	3.30%	2.80%	-1.50% and Less than -1.00%
2.95%	2.80%	2.30%	-1.00% and Less than -0.75%
2.45%	2.30%	1.80%	-0.75% and Less than -0.50%
1.95%	1.80%	1.30%	-0.50% and Less than -0.25%
1.45%	1.30%	0.80%	-0.25% and Less than 0.00%
0.95%	0.80%	0.30%	0.00% and Less than 0.50%
0.70%	0.55%	0.05%	0.50% and Less than 0.75%
0.55%	0.40%	0.00%	0.75% and Less than 1.00%
0.35%	0.20%	0.00%	1.00% and Less than 1.25%
0.25%	0.10%	0.00%	1.25% and Less than 1.50%
0.15%	0.00%	0.00%	1.50% and Less than 1.75%
0.05%	0.00%	0.00%	1.75% and Less than 2.25%
0.00%	0.00%	0.00%	2.25% and Over

The contribution rates provided in this section apply to taxable wages paid on and after January 1, 2024.

Section 4. That § 61-5-28 be AMENDED:

61-5-28. If on the last day of any calendar quarter through December 31, 2023, the amount in the unemployment compensation fund, as established by § 61-4-1, including amounts receivable as federal reimbursements due the state for shareable benefit payments, is less than any amount appearing in Column A

below, then all employers' rates shall be increased by the amount appearing in Column B opposite the lowest amount in Column A under which the fund has been reduced:

Column "A" Balance in Fund	Column "B" Rates
$11,000,000	0.1 %
10,500,000	0.2 %
10,000,000	0.3 %
9,500,000	0.4 %
9,000,000	0.5 %
8,500,000	0.6 %
8,000,000	0.7 %
7,500,000	0.8 %
7,000,000	0.9 %
6,500,000	1.0 %
6,000,000	1.25%
5,500,000	1.5 %

If on the last day of any calendar quarter beginning January 1, 2024, the average high cost multiplier ratio ("AHCM"), as defined in § 61-5-25, calculated on the amount in the unemployment compensation fund, as established by § 61-4-1, including amounts receivable as federal reimbursements due the state for shareable benefit payments, is less than any ratio appearing in Column A below, then all employers' rates must be increased by the amount appearing in Column B opposite the lowest amount in Column A under which the fund has been reduced:

Column "A" Balance in Fund	Column "B" Rates
AHCM between 0.60 and 0.75	0.1%
AHCM between 0.50 and 0.59	0.2%
AHCM between 0.40 and 0.49	0.3%
AHCM between 0.30 and 0.39	0.4%
AHCM between 0.20 and 0.29	0.5%
AHCM between 0.00 and 0.19	1.0%
AHCM less than 0.00	1.5%

The increased contribution rates apply to taxable wages paid on and after the first day of the immediately following calendar quarter. The rates ~~shall~~ remain in effect until the balance in the unemployment fund on the last day of any quarter through December 31, 2023, is ~~equal to or greater than one hundred fifty percent of the highest amount appearing in Column A~~ between $11,000,000 and $16,500,000. The increased rate ~~shall~~must be one-tenth of one percent if the balance in the fund is ~~one hundred percent or more but less than one hundred fifty percent of the highest amount~~between $11,000,000 and $16,500,000. Beginning January 1, 2024, the rates remain in effect until the balance in the unemployment fund on the last day of any quarter is greater than the highest ratio appearing in Column A. The increased rate is one-tenth of one percent if the balance is more than the highest average high cost multiplier ratio appearing in Column A but less than an average high cost multiplier ratio of 1.0. However, under no circumstances may any employer be required to pay contributions at a rate, including the adjustment percentage, of more than twelve percent. ~~However, the increased~~

~~contribution rates under this section shall not exceed one percent for taxable wages paid from January 1, 2010, through December 31, 2010, and may not exceed seventy five hundredths of one percent for taxable wages paid from January 1, 2011, through December 31, 2011. Effective January 1, 2012, any~~Any rate increase based on this section ~~will remain~~remains in effect for four consecutive calendar quarters. The rate for the second, third, and fourth quarters may increase based on the fund balance on the last day of the immediately prior quarter~~,~~ but may not decrease from the prior quarter during the four consecutive quarters.

The computation date and experience rating account balance used to determine contribution rates must be used in the application of this section. Any payments must be credited to the experience rating account of the employer. However, if amounts paid under this section are used to pay interest on advances made to the state from the federal unemployment account in the federal Unemployment Trust Fund under 42 U.S.C. § 1321 (2004), these amounts may not be credited to an employer's experience rating account.

The contribution rates provided in this section apply to and are retroactive to taxable wages paid on and after January 1, 2010.

Section 5. That § 61-5-28.1 be AMENDED:

61-5-28.1. Each employer eligible for ~~experience rating~~ experience rating as defined in § 61-5-24 on the computation date for the year, shall also pay an administrative fee on wages as defined by this title. If an employer's reserve ratio, as determined pursuant to § 61-5-25.4 through calendar year 2019~~, and~~ pursuant to § 61-5-25.5 for calendar year 2020 through calendar year 2023, and pursuant to section 3 of this Act for calendar year 2024 and each year thereafter, is less than two and one-quarter percent, an administrative fee of two-hundredths percent shall be paid by the employer.

The terms and conditions of this title that apply to the payment and collection of contributions also apply to the payment and collection of the administrative fee. Proceeds from the administrative fee ~~shall~~ must be deposited in the clearing account of the unemployment compensation fund for clearance only and may not become part of the fund. After clearance, the money derived from the administrative fee payments, less refunds made pursuant to the provisions of this title, ~~shall~~ must be deposited in the employment security administration fund for expenditure as provided in § 61-3-24. No administrative fee payment may be credited to the employer's ~~experience rating~~ experience rating account nor may be deducted in whole or in part by any employer from the wages of individuals in its employ.

The administrative fee provided in this section applies to taxable wages paid on and after January 1, 2018.

Section 6. That § 61-5-29 be AMENDED:

61-5-29. Employers required by this title to pay contributions, except employers pursuant to chapter 61-5A, that reimburse the unemployment compensation trust fund for benefits paid in lieu of contributions, shall also pay an employer's investment in South Dakota's future fee, hereinafter referred to as the, investment fee, on wages as defined by this title. The fee rate for employers not eligible for experience rating, as defined in § 61-5-24, ~~shall~~ must be seventy hundredths percent through calendar year 2006 and fifty-five hundredths percent on and after January 1, 2007. If an employer is eligible for experience rating, the employer's reserve ratio ~~shall~~ must be determined pursuant to § 61-5-25.3 through calendar year 2017, pursuant to § 61-5-25.4 for calendar years 2018 and 2019, ~~and~~ pursuant to § 61-5-25.5 for calendar year 2020 through calendar year

2023, and pursuant to section 3 of this Act for calendar year 2024 and each year thereafter, and the employer's investment fee rate ~~shall~~ must be the rate appearing in column "A" on the same line the employer's reserve ratio appears in column "B" of the following rate schedule:

Column "A" Investment Fee Rate	Column "B" Reserve Ratio
0.53%	Less than 1.00%
0.50%	1.00% and Less than 1.20%
0.40%	1.20% and Less than 1.30%
0.30%	1.30% and Less than 1.40%
0.20%	1.40% and Less than 1.50%
0.10%	1.50% and Less than 1.60%
0.00%	1.60% and Over

The terms and conditions of this title that apply to the payment and collection of contributions also apply to the payment and collection of the investment fee. Proceeds from the investment fee ~~shall~~ must be deposited in the clearing account of the unemployment compensation fund for clearance only and may not become part of the fund. After clearance, the money derived from the investment fee payments, less refunds made pursuant to the provisions of this title, ~~shall~~ must be deposited in the employer's investment in South Dakota's future ~~special revenue~~ fund as provided for in § 61-5-29.1. No investment fee payment may be credited to the employer's experience-rating account nor may the payment be deducted in whole or in part by any employer from the wages of individuals in its employ.

The investment fee rate may not be increased over the applicable 1987 investment fee rate for any employer with a positive balance in the employer's experience-rating account on the computation date, as established in rules promulgated by the secretary of labor and regulation pursuant to chapter 1-26, for the current year and the year preceding the current year.

The investment rates provided in this section apply to and are retroactive to taxable wages paid on and after January 1, 1993.

Signed February 1, 2023

UNCODIFIED ACTS

Chapter 172

(House Bill 1010)

An Act to repeal the sunset date for provisions related to the licensure of behavior analysts.

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

Section 1. That section 28 of chapter 199 of the 2016 Session Laws be REPEALED:

~~Section 28. This Act is repealed on July 1, 2024.~~

Signed February 9, 2023

Chapter 173

(House Bill 1026)

An Act to make an appropriation for costs related to suppression of wildfires in the state and to declare an emergency.

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

Section 1. There is hereby appropriated from the general fund the sum of $2,463,207 to the state fire suppression special revenue fund, for costs related to the suppression of wildfires in South Dakota.

Section 2. The secretary of the Department of Public Safety shall approve vouchers and the state auditor shall draw warrants to pay expenditures authorized by this Act.

Section 3. Any amounts appropriated in this Act not lawfully expended or obligated shall revert in accordance with the procedures prescribed in chapter 4-8.

Section 4. Whereas, this Act is necessary for the support of the state government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

Signed February 9, 2023

Chapter 174

(House Bill 1027)

An Act to make an appropriation for costs related to disasters in the state and to declare an emergency.

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

Section 1. There is hereby appropriated from the general fund the sum of $2,524,560 to the special emergency and disaster special revenue fund, for costs related to any emergency or disaster, as defined in § 34-48A-1, in South Dakota.

Section 2. The secretary of the Department of Public Safety shall approve vouchers and the state auditor shall draw warrants to pay expenditures authorized by this Act.

Section 3. Whereas, this Act is necessary for the support of the state government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

Signed February 9, 2023

Chapter 175

(House Bill 1063)

An Act to require the Unified Judicial System to assemble a task force to address barriers to services for emerging adults involved in the justice system in South Dakota.

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

Section 1. The Unified Judicial System shall assemble a task force consisting of at least eleven members to examine barriers to service for emerging adults involved in the justice system in South Dakota.

Section 2. For purposes of this Act, the term, emerging adults, means individuals who are eighteen to twenty-five years old.

Section 3. The task force must be comprised of representatives from the following agencies or interests: the Unified Judicial System, Department of Corrections, Department of Education, Department of Labor and Regulation, Department of Social Services, prosecutors, defense attorneys, law enforcement, and community-based providers.

Section 4. The task force examination must include the following:

(1) Recommending best practices for supporting emerging adults that are involved in the adult criminal justice system;

(2) Creating joint training opportunities for justice system professionals and partners related to emerging adults;

(3) Identifying opportunities to expand diversion programming for emerging adults;

(4) Exploring ways to overcome barriers to housing and employment for emerging adults;

(5) Exploring supervision practices utilized through probation and parole for emerging adult offenders;

(6) Recommending ways to develop culturally responsive, community-based mentoring programs for emerging adults, and

(7) Recommending alternative or additional funding structures for supportive services for emerging adults.

Section 5. The Unified Judicial System shall present the findings of the task force to the Governor and to the Legislature no later than November 15, 2023.

Section 6. All expenses incurred in carrying out the work of the task force shall be paid out of funds appropriated or otherwise provided to the Unified Judicial System.

Signed February 9, 2023

Chapter 176

(Senate Bill 12)

An Act to authorize the construction of a National Guard vehicle maintenance shop in Watertown, to make an appropriation therefor, and to declare an emergency.

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

Section 1. The Department of the Military may contract for the construction, completion, furnishing, equipping, and maintaining of, including heating, plumbing, water, sewer, electric facilities, architectural and engineering services, and such other services or actions as may be required to construct a vehicle maintenance shop in Watertown for an estimated cost of $29,000,000, subject to permitted adjustments pursuant to section 3 of this Act.

Section 2. There is hereby appropriated $29,000,000 in federal fund expenditure authority to the Department of the Military for purposes stated in section 1 of this Act.

Section 3. The Department of the Military may adjust the authorized cost estimate in section 1 of this Act to reflect inflation as measured by the building cost index reported by the Engineering News Record, additional expenditures required to comply with regulations adopted after the effective date of this Act, or additional sums received pursuant to section 4 of this Act. However, any adjustments to the construction cost estimate for the project may not exceed one hundred twenty-five percent of the appropriation stated in section 1 of this Act.

Section 4. In addition to the amount appropriated in section 2 of this Act, the Department of the Military may accept and expend for the purposes of this Act any funds obtained from gifts, contributions, or any other source if the acceptance and expenditure is approved in accordance with § 4-8B-10.

Section 5. The design and construction of this project shall be under the general charge and supervision of the Department of the Military. The adjutant general of the Department of the Military or the state engineer shall approve vouchers and the state auditor shall draw warrants to pay expenditures authorized by this Act.

Section 6. Any amounts appropriated in this Act not lawfully expended or obligated shall revert in accordance with the procedures prescribed in chapter 4-8.

Section 7. Whereas, this Act is necessary for the support of the state government and its existing public institutions, an emergency is hereby declared to exist, and this Act is in full force and effect from and after its passage and approval.

Signed February 22, 2023

Chapter 177

(Senate Bill 13)

An Act to authorize the construction of an addition to the BG Dean Mann Readiness Center in Sioux Falls, to make an appropriation therefor, and to declare an emergency.

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

Section 1. The Department of the Military may contract for the construction, completion, furnishing, equipping, and maintaining of, including heating, plumbing, water, sewer, electric facilities, architectural and engineering services, and such other services or actions as may be required, to construct an addition to the BG Dean Mann Readiness Center in Sioux Falls for an estimated cost of $6,000,000, subject to permitted adjustments pursuant to section 3 of this Act.

Section 2. There is hereby appropriated $6,000,000 in federal fund expenditure authority to the Department of the Military for the purposes stated in section 1 of this Act.

Section 3. The Department of the Military may adjust the authorized cost estimate in section 1 of this Act to reflect inflation as measured by the Building Cost Index reported by the Engineering News Record, additional expenditures required to comply with regulations adopted after the effective date of this Act, or additional sums received pursuant to section 4 of this Act. Any adjustments to the construction cost estimate for the project may not exceed one hundred twenty-five percent of the estimated project construction cost stated in section 1 of this Act.

Section 4. In addition to the amount appropriated in section 2 of this Act, the Department of the Military may accept and expend for the purpose of this Act any funds obtained from gifts, contributions, or any other source, if the acceptance and expenditure is approved in accordance with § 4-8B-10.

Section 5. The design and construction of this project shall be under the general charge and supervision of the Department of the Military. The adjutant general of the Department of the Military or the state engineer shall approve vouchers and the state auditor shall draw warrants to pay expenditures authorized by section 1 of this Act.

Section 6. Any amounts appropriated in this Act not lawfully expended or obligated shall revert in accordance with the procedures prescribed in chapter 4-8.

Section 7. Whereas, this Act is necessary for the support of the state government and its existing public institutions, an emergency is hereby declared to exist, and this Act is in full force and effect from and after its passage and approval.

Signed February 22, 2023

Chapter 178

(Senate Bill 14)

An Act to revise the legal description for the construction of a National Guard Readiness Center in Sioux Falls, make an additional appropriation therefor, and to declare an emergency.

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

Section 1. There is hereby appropriated from the general fund the sum of $667,000 and the sum of $2,001,000 in federal fund expenditure authority to the Department of the Military, for purposes of designing and constructing a National Guard Readiness Center in Sioux Falls. This amount is in addition to the amount appropriated for the same project by 2022 Session Laws, Chapter 196 § 1.

Section 2. The adjutant general of the Department of the Military shall approve vouchers and the state auditor shall draw warrants to pay expenditures authorized by this Act.

Section 3. Any amounts appropriated in this act not lawfully expended or obligated shall revert in accordance with the procedures prescribed in chapter 4-8.

Section 4. That chapter 196, § 1 of the 2022 Session Laws be AMENDED:

Section 1. There is hereby appropriated from the general fund the sum of $5,685,920 and the sum of $16,291,974 in federal fund expenditure authority to the Department of the Military, for purposes of design and construction of a National Guard Readiness Center in Sioux Falls, and to authorize and support activities related to the following property exchange:

(1) An approximately 32.96-acre parcel located on East Benson Road and North Sycamore Avenue in Sioux Falls that is currently owned by the state, with the following description: ~~Tract 3 less the western most five (5) acres of said Tract, and all of Tract 4,~~ Tract 4 and Tract 5 of Knabach Addition to the City of Sioux Falls~~, Located in the SE1/4 of Section 35, T102N-R49W of the 5th P.M., City of Sioux Falls~~, Minnehaha County, South Dakota; and

(2) An approximately 38.88-acre parcel located on ~~the future North Bahnson Avenue Road in Sioux Falls that is currently owned by the Sioux Falls Development Foundation, with the following description: Tract 3 (excepting Lot H1), East Benson Addition to the City of Sioux Falls; a portion of an unplatted parcel of land described as the Northwest 1/4 (Except H1 through H5, Lacey's Tract 2, Lacey's Addition, Lacey's 2nd Addition and Runge's Addition); and a portion of an unplatted parcel of land described as the West 1/2 of the Southwest 1/4 (excepting Lot H1, Lot H2 and Sioux Empire Development Park 8 Addition), all located in Section 35, Township 102 North, Range 49 West of the 5th P.M. City of Sioux Falls, Minnehaha County, South Dakota~~ North Bahnson Avenue in Sioux Falls with the following description: Lots 1 and 2 in Block 3 of Sioux Empire Development Park 8 Addition to the City of Sioux Falls, Minnehaha County, South Dakota.

Section 5. Whereas, this Act is necessary for the support of the state government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

Signed February 22, 2023

Chapter 179

(House Bill 1064)

An Act to require the Unified Judicial System to assemble a task force to address the provision of legal services to indigent parties within the South Dakota court system and to declare an emergency.

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

Section 1. The Unified Judicial System shall assemble a task force consisting of the following thirteen members to examine the delivery of legal services to indigent parties in the South Dakota court system.

Section 2. The task force shall be composed of four members appointed by the chief justice of the Supreme Court, three county representatives appointed by the Association of County Commissioners, two members in good standing of the South Dakota Bar Association with experience in criminal, juvenile, and child abuse and neglect cases appointed by the president of the State Bar Association, two legislators, one appointed by the speaker of the House of Representatives and one appointed by the president pro tempore of the Senate, and a state's attorney and a member of the attorney general's office appointed by the attorney general.

Section 3. The task force examination must include the following:

(1) Identifying how legal services are delivered in South Dakota to indigent parties in criminal, juvenile, and child abuse and neglect proceedings statewide;

(2) Recommending ways to improve the delivery of legal services to indigent parties;

(3) Recommending methods to provide services for conflict cases where local public defenders may be unable to take cases;

(4) Addressing how to ensure competent representation is provided to indigent parties; and

(5) Identifying potential funding options to ensure delivery of legal services for indigent parties.

Section 4. The Unified Judicial System shall present findings of the task force to the Governor and to the Legislature no later than November 15, 2023.

Section 5. All expenses incurred in carrying out the work of the task force shall be paid out of funds appropriated or otherwise provided to the Unified Judicial System.

Section 6. Whereas, this Act is necessary for the support of the state government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

Signed February 22, 2023

Chapter 180

(Senate Bill 34)

An Act to authorize the sale of real property in Lake County by the Board of Regents, and to declare an emergency.

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

Section 1. The Board of Regents may sell, at a minimum of the appraised value in accordance with §§ 5-2-2.1 and 5-2-2.2, all or any portion of the following real property in the City of Madison, Lake County, South Dakota: TRACT A OF LOT 3 OF BLOCK 1 DSU FOUNDATION ADDITION.

Section 2. The proceeds from the sale authorized by section 1 of this Act, less any costs associated with the sale of the real property, must be deposited by the commissioner of school and public lands in the Board of Regents endowed institution interest and income fund, pursuant to chapter 5-10, and the earnings from the sale must be credited to the support of Dakota State University and its authorized programs, as provided by law.

Section 3. The executive director of the Board of Regents shall approve vouchers and the state auditor shall draw warrants to pay any expenses associated with the sale authorized by this Act.

Section 4. Whereas, this Act is necessary for the support of the state government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

Signed February 27, 2023

Chapter 181

(Senate Bill 93)

An Act to provide an increased appropriation for the construction costs of an athletics events center at Dakota State University, and to declare an emergency.

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

Section 1. That section 1 of chapter 232 of the 2022 Session Laws be AMENDED:

The Board of Regents is hereby authorized to contract for the planning, site preparation, construction, furnishing, and equipping of an athletics events

center comprised of a football stadium, athletic fields, track, associated spectator seating, restrooms, concession stands, locker rooms, media area, classrooms, labs, training areas, esports area, offices, club room, service area, meeting rooms, and storage at Dakota State University, including heating, air conditioning, plumbing, water, sewer, electricity, sidewalks, parking, landscaping, architectural and engineering services, land acquisition, and such other facilities, services or actions as may be required to accomplish the project, for an estimated cost of ~~$28,047,000,~~$40,000,000, subject to permitted adjustments pursuant to section 3 of this Act.

Section 2. That section 2 of chapter 232 of the 2022 Session Laws be AMENDED:

There is hereby appropriated to the Board of Regents, for the purposes authorized in this Act, the sum of ~~$28,047,000~~$40,000,000, in other fund expenditure authority from donated funds, together with any additional sums received pursuant to section 4 of this Act, and permitted adjustments pursuant to section 3 of this Act.

Section 3. Whereas, this Act is necessary for the support of the state government and its existing public institutions, an emergency is declared to exist, and this Act is in full force and effect from and after its passage and approval.

Signed February 27, 2023

Chapter 182
(Senate Bill 25)

An Act to make an appropriation to reimburse health care professionals who have complied with the requirements for health care recruitment assistance programs and to declare an emergency.

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

Section 1. There is hereby appropriated from the general fund the sum of $1,000,261 to the Department of Health, for the purposes of reimbursing four family physicians, two dentists, and two physician assistants who have, in the determination of the department, met the requirements of § 34-12G-3. There is also hereby appropriated from the general fund the sum of $284,999 to the Department of Health, for the purposes of reimbursing eligible health care practitioners who have, in the determination of the department, met the requirements of § 34-12G-12.

Section 2. The secretary of the Department of Health shall approve vouchers and the state auditor shall draw warrants to pay expenditures authorized by this Act.

Section 3. Any amounts appropriated in this Act not lawfully expended or obligated shall revert in accordance with the procedures prescribed in chapter 4-8.

Section 4. Whereas, this Act is necessary for the support of the state government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

Signed March 2, 2023

Chapter 183
(Senate Bill 19)

An Act to make an appropriation for the payment of extraordinary litigation expenses and to declare an emergency.

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

Section 1. There is hereby appropriated from the general fund the sum of $2,000,000 to the extraordinary litigation fund for the purpose of payment of eligible expenses.

Section 2. The commissioner of the Bureau of Administration shall approve vouchers and the state auditor shall draw warrants to pay expenditures authorized by this Act.

Section 3. Any amounts appropriated in this Act not lawfully expended or obligated shall revert in accordance with the procedures prescribed in chapter 4-8.

Section 4. Whereas, this Act is necessary for the support of the state government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

Signed March 2, 2023

Chapter 184
(Senate Bill 20)

An Act to authorize the awarding of deobligated grants in accordance with policies of the Board of Water and Natural Resources.

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

Section 1. If any system or municipality is awarded a grant, in accordance with provisions set forth in the 2022 Session Laws, chapter 210, and if the grant is deobligated on or after October 1, 2022, the amount that is deobligated is no longer subject to subdivisions (1) through (5), inclusive, of section 3 of chapter 210, but may be awarded, to another system or municipality, by the Board of Water and Natural Resources, in accordance with policies of the board.

Signed March 6, 2023

Chapter 185

(House Bill 1006)

An Act to increase the funding for construction of an addition to the Kinsman Building in Pierre, to make an appropriation therefor, and to declare an emergency.

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

Section 1. That section 2 of chapter 231 of the 2022 Session Laws be AMENDED:

Section 2. There is hereby appropriated the sum of ~~$1,450,000~~ $3,000,000 in other fund expenditure authority to the Bureau of Administration for the purposes described in section 1.

Section 2. Whereas, this Act is necessary for the support of the state government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

Signed March 8, 2023

Chapter 186

(House Bill 1032)

An Act to make an appropriation for the demolition and reconstruction of agricultural-use structures at South Dakota State University, and to declare an emergency.

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

Section 1. There is hereby appropriated the sum of $5,800,000, of other fund expenditure authority, from insurance proceeds, institutional funds, and federal funds, to the Board of Regents for the purposes authorized in this Act.

Section 2. The Board of Regents may demolish, remove, dispose of, reconstruct, replace, or combine:

(1) The Agriculture Experiment Station Shed Hoop West 0848, at South Dakota State University;

(2) The Agriculture Experiment Station Shed Hoop East 0849, at South Dakota State University;

(3) The Agriculture Experiment Station Monoslope Horse Building 627, including a two thousand square foot addition, at South Dakota State University;

(4) The Agriculture Experiment Station Sheep Unit Commodity Shed building T1300, at South Dakota State University; and

(5) The Agriculture Experiment Station Beef Breeding North Barn T0860, at South Dakota State University

Section 3. Each project listed in section 2 of this Act includes the abatement of asbestos and other hazardous materials, the disposal of the fixtures and rubble, and any other action necessary to restore the surface condition of the site for authorized construction.

The estimated total cost of the projects listed in section 2 of this Act is $5,800,000, subject to the adjustments permitted in section 4 of this Act.

Section 4. The estimated total cost stated in section 3 of this Act is in 2022 values. The Board of Regents may adjust the cost estimate to reflect:

(1) Inflation, as measured by the Building Cost Index and reported by the Engineering News Record;

(2) Additional expenditures required to comply with regulations adopted after the effective date of this Act; and

(3) Additional sums received pursuant to section 1 of this Act.

Any adjustments to the estimated cost may not exceed one hundred twenty-five percent of the estimated total cost, as set forth in section 3 of this Act.

Section 5. The administration of the design and construction of the projects listed in section 2 of this Act are under the general charge and supervision of the Bureau of Administration, as provided for in chapter 5-14.

Section 6. The executive director of the Board of Regents shall approve vouchers and the state auditor shall draw warrants to pay expenditures authorized by this Act.

Section 7. Whereas, this Act is necessary for the support of the state government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

Signed March 8, 2023

Chapter 187

(House Bill 1196)

An Act to make an appropriation for improving the buildings and grounds of the capitol complex and declare an emergency.

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

Section 1. There is hereby appropriated from the general fund the sum of $3,200,000 and appropriated the sum of $2,000,000 in other fund expenditure authority to the Bureau of Administration, for the purposes of, on the grounds of the capitol complex, securing the defective well supplying water to Capitol Lake; replacing the water source for Capitol Lake; preserving existing veterans, law enforcement, firefighter, and first responder memorials located around Capitol Lake; and accommodating additional memorials and improvements.

Section 2. The Capitol Complex Restoration and Beautification Commission, created by § 5-15-1, shall oversee the expenditure of funds authorized by this Act.

Section 3. The commissioner of the Bureau of Administration shall approve vouchers and the state auditor shall draw warrants to pay expenditures authorized by this Act.

Section 4. Any amounts appropriated in this Act not lawfully expended or obligated shall revert in accordance with the procedures prescribed in chapter 4-8.

Section 5. Whereas, this Act is necessary for the support of the state government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

Signed March 9, 2023

Chapter 188
(Senate Bill 103)

An Act to create a pilot program in the Unified Judicial System for risk and lethality assessments for certain persons accused of assault or protection order violations.

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

Section 1. The Unified Judicial System shall conduct a pilot program to allow a committing magistrate judge or circuit court judge to review a risk and lethality assessment conducted by law enforcement for a person charged with assaulting a person in a relationship described in § 25-10-3.1, or with violating a protection order, when determining if bond or other conditions of release are necessary for the protection of the alleged victim. The Unified Judicial System shall determine the parameters of the pilot program and provide a report concerning the pilot program to the Legislature prior to December 31, 2024. The report must include the results of the pilot program and a recommendation on whether the program should be continued, expanded, or made permanent.

Section 2. The pilot program will expire on December 31, 2024.

Signed March 9, 2023

Chapter 189
(House Bill 1030)

An Act to make an appropriation for the revised construction costs of the bioproducts facility in Brookings, and to declare an emergency.

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

Section 1. That section 1 of chapter 244 of the 2021 Session Laws be AMENDED:

There is hereby appropriated from the general fund the sum of ~~$20,000,000~~ $23,000,000 to the Board of Regents, for the ~~purposes~~ purpose of

providing grant funding for the design, construction, and furnishing of a new bioproducts facility at the research park in Brookings.

Section 2. Whereas, this Act is necessary for the support of the state government and its existing public institutions, an emergency is declared to exist, and this Act is in full force and effect from and after its passage and approval.

Signed March 15, 2023

Chapter 190

(Senate Bill 33)

An Act to amend an appropriation for the revised construction costs of the Mineral Industries Building at the School of Mines and Technology, and to declare an emergency.

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

Section 1. That section 1 of chapter 228 of the 2021 Session Laws be AMENDED:

The Board of Regents is hereby authorized to contract for the planning, site preparation, construction, furnishing, and equipping of an up to ninety thousand square foot Mineral Industry Building on the campus of South Dakota School of Mines and Technology, including any heating, air conditioning, plumbing, water, sewer, electric facilities, sidewalks, parking, landscaping, architectural and engineering services, and such other services or actions as may be required to accomplish the project, for an estimated cost of ~~$34,000,000~~ $41,800,000, subject to the permitted adjustments pursuant to section 4 of this Act.

Section 2. That section 3 of chapter 228 of the 2021 Session Laws be AMENDED:

There is hereby appropriated to the Board of Regents for the purposes authorized in this Act, the sum of ~~$19,000,000~~ $23,400,000 in general funds; and the sum of ~~$16,000,000~~ $19,400,000 in other fund expenditure authority.

Section 3. Whereas, this Act is necessary for the support of the state government and its existing public institutions, an emergency is declared to exist, and this Act is in full force and effect from and after its passage and approval.

Signed March 9, 2023

Chapter 191

(Senate Bill 18)

An Act to revise the appropriation for a livestock and equestrian complex at the State Fair, and to declare an emergency.

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

Section 1. That section 1 of chapter 226 of the 2021 Sessions Laws be amended to read:

~~Section 1.~~ The Department of Agriculture and Natural Resources is hereby authorized to contract for the planning, site preparation, construction, furnishing, and equipping of a livestock and equestrian complex at the State Fair, including any heating, air conditioning, plumbing, water, sewer, electric facilities, sidewalks, parking, landscaping, architectural and engineering services, and any other services or actions required to accomplish the project, for an estimated cost of ~~$20,000,000~~ $29,000,000, subject to any adjustments authorized in ~~section 3 of this Act~~ chapter 226, § 3 of the 2021 Session Laws.

Section 2. That section 2 of chapter 226 of the 2021 Sessions Laws be amended to read:

There is hereby appropriated from the general fund the sum of ~~$12,000,000~~ $18,000,000 to the Department of Agriculture and Natural Resources.

There is also appropriated the sum of ~~$8,000,000~~ $11,000,000 in other fund expenditure authority to the Department of Agriculture and Natural Resources, consisting of the Beef Complex insurance proceeds and the amount received by the Department of Agriculture and Natural Resources under ~~section 4 this Act~~ chapter 226, § 4 of the 2021 Session Laws.

Section 3. Whereas, this Act is necessary for the support of the state government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

Signed March 9, 2023

Chapter 192

(House Bill 1016)

An Act to authorize the South Dakota Department of Corrections to construct a prison facility for offenders committed to the Department of Corrections in Rapid City, to make an appropriation therefor, and to declare an emergency.

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

Section 1. The Department of Corrections may contract for the planning, site preparation, designing, and construction of a prison facility for offenders committed to the Department of Corrections in Rapid City, together with the furnishings and equipment, including heating, air conditioning, plumbing, water, sewer, electric facilities, architectural and engineering services, and other services and improvements as may be required.

Section 2. There is hereby appropriated the sum of $60,000,000 from the incarceration construction fund in other fund expenditure authority, to the Department of Corrections, for purposes of this Act.

Section 3. The administration of the design of the project authorized in this Act shall be under the general charge and supervision of the Bureau of Administration as provided in chapter 5-14.

Section 4. The secretary of the Department of Corrections shall approve vouchers and the state auditor shall draw warrants to pay expenditures authorized by this Act.

Section 5. Any amounts appropriated in this Act not lawfully expended or obligated shall revert in accordance with the procedures prescribed in chapter 4-8.

Section 6. Whereas, this Act is necessary for the support of the state government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

Signed March 20, 2023

Chapter 193

(House Bill 1035)

An Act to make an appropriation to the Department of Revenue for the modernization of the motor vehicle administration system, and to declare an emergency.

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

Section 1. There is hereby appropriated from the general fund the sum of $25,000,000 to the Department of Revenue for the purpose of modernizing the motor vehicle administration system.

Section 2. The secretary of the Department of Revenue shall approve vouchers and the state auditor shall draw warrants to pay expenditures authorized by this Act.

Section 3. Any amounts appropriated in this Act not lawfully expended or obligated shall revert in accordance with the procedures prescribed in chapter 4-8.

Section 4. Whereas, this Act is necessary for the support of the state government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

Signed March 14, 2023

Chapter 194

(House Bill 1021)

An Act to make an appropriation to the State Conservation Commission and to declare an emergency.

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

Section 1. There is hereby appropriated from the coordinated natural resources conservation fund the sum of $1,000,000, to the State Conservation Commission, for the purpose of implementing the South Dakota Coordinated Plan for Natural Resources Conservation.

Section 2. The State Conservation Commission shall approve vouchers and the state auditor shall draw warrants to pay expenditures authorized by this Act.

Section 3. Any amounts appropriated in this Act not lawfully expended or obligated shall revert in accordance with the procedures prescribed in chapter 4-8.

Section 4. Whereas, this Act is necessary for the support of the state government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

Signed March 15, 2023

Chapter 195
(House Bill 1017)

An Act to authorize the Department of Corrections to purchase certain real property, to contract for the design of a prison facility for offenders committed to the Department of Corrections, to make an appropriation therefor, to transfer funds to the incarceration construction fund, and to declare an emergency.

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

Section 1. The Department of Corrections may purchase, on behalf of the State of South Dakota, real property for offenders committed to the Department of Corrections.

Section 2. The Department of Corrections is hereby authorized to contract for the planning and site preparation of a prison facility for offenders committed to the Department of Corrections, including architectural services, engineering services, and other services as may be required to accomplish the project.

Section 3. There is hereby appropriated from the general fund the sum of $25,359,551 and appropriated from the incarceration construction fund the sum of $26,640,449 in other fund expenditure authority to the Department of Corrections, for the purpose authorized in sections 1 and 2 of this Act.

Section 4. The state treasurer shall transfer the sum of $87,031,734 from the general fund and $183,685,079 from the general revenue replacement fund to the incarceration construction fund for the purpose of the future construction of a state prison facility described pursuant to this Act.

Section 5. The administration of the design of the project authorized in this Act shall be under the general charge and supervision of the Bureau of Administration as provided in chapter 5-14.

Section 6. Any amounts appropriated in this act not lawfully expended or obligated shall revert in accordance with the procedures prescribed in chapter 4-8.

Section 7. The secretary of the Department of Corrections shall approve vouchers and the state auditor shall draw warrants to pay expenditures authorized by this Act.

Section 8. Whereas, this Act is necessary for the support of the state government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

Signed March 20, 2023

Chapter 196

(House Bill 1023)

An Act to make an appropriation for the construction of a maintenance shop for the Wildland Fire Suppression Division in Rapid City and to declare an emergency.

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

Section 1. There is hereby appropriated from the general fund the sum of $1,325,058 to the Department of Public Safety for purposes of designing, renovating, constructing, furnishing, and equipping a maintenance shop for the Wildland Fire Suppression Division on its Rapid City campus, including heating, air conditioning, plumbing, water, sewer, electrical, architectural and engineering services, and other services as may be required.

Section 2. The administration of the design, renovation, and construction of the project authorized in this Act shall be under the general charge and supervision of the Bureau of Administration as provided in chapter 5-14.

Section 3. The secretary of the Department of Public Safety shall approve vouchers and the state auditor shall draw warrants to pay expenditures authorized by this Act.

Section 4. Any amounts appropriated in this Act not lawfully expended or obligated shall revert in accordance with the procedures prescribed in chapter 4-8.

Section 5. Whereas, this Act is necessary for the support of the state government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

Signed March 16, 2023

Chapter 197

(House Bill 1024)

An Act to make an appropriation for the construction of a maintenance shop for the Wildland Fire Suppression Division in Hot Springs and to declare an emergency.

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

Section 1. There is hereby appropriated from the general fund the sum of $1,200,000 to the Department of Public Safety for purposes of designing, renovating, constructing, furnishing, and equipping a maintenance shop for the Wildland Fire Suppression Division on the State Veterans Home campus in Hot Springs, including heating, air conditioning, plumbing, water, sewer, electrical, architectural and engineering services, and other services as may be required.

Section 2. The administration of the design, renovation, and construction of the project authorized in this Act shall be under the general charge and supervision of the Bureau of Administration as provided in chapter 5-14.

Section 3. The secretary of the Department of Public Safety shall approve vouchers and the state auditor shall draw warrants to pay expenditures authorized by this Act.

Section 4. Any amounts appropriated in this Act not lawfully expended or obligated shall revert in accordance with the procedures prescribed in chapter 4-8.

Section 5. Whereas, this Act is necessary for the support of the state government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

Signed March 16, 2023

Chapter 198

(House Bill 1078)

An Act to make an appropriation to the Department of Human Services for the development and expansion of adult day services programs and to declare an emergency.

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

Section 1. There is hereby appropriated from the general fund the sum of $2,000,000 to the Department of Human Services, for the purpose of providing grants to support the development and expansion of adult day services programs that serve adults living with dementia, or symptoms in alignment with dementia.

Section 2. To be eligible for a grant, an applicant must demonstrate the capacity to serve a new or underserved area with qualifying services. The department shall

prioritize grants to support the development of adult day service programs in counties without a program.

Section 3. The secretary of the Department of Human Services shall approve vouchers and the state auditor shall draw warrants to pay expenditures authorized by this Act.

Section 4. Any amounts appropriated in this Act not lawfully expended or obligated shall revert in accordance with the procedures prescribed in chapter 4-8.

Section 5. Whereas, this Act is necessary for the support of the state government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

Signed March 23, 2023

Chapter 199

(House Bill 1079)

An Act to make an appropriation to the Department of Health to provide grants to support mental health and suicide prevention programs, and to declare an emergency.

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

Section 1. There is hereby appropriated from the general fund the sum of $2,000,000 to the Department of Health, for purposes of providing grants to support programs, for youth and young adults, that provide:

(1) Mental health and suicide prevention peer support training;

(2) Community mental health and suicide prevention data services; and

(3) Suicide loss response planning and support services.

Section 2. The secretary of the Department of Health shall approve vouchers and the state auditor shall draw warrants to pay expenditures authorized by this Act.

Section 3. Any amounts appropriated in this Act not lawfully expended or obligated shall revert in accordance with the procedures prescribed in chapter 4-8.

Section 4. Whereas, this Act is necessary for the support of the state government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

Signed March 23, 2023

Chapter 200

(Senate Bill 23)

An Act to make an appropriation for the modernization of the state's enterprise resource planning systems and to declare an emergency.

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

Section 1. There is hereby appropriated from the general fund the sum of $70,000,000 and 45.0 FTE to the Bureau of Finance and Management for the purpose of modernizing the state's core financial systems and processes.

Section 2. The commissioner of the Bureau of Finance and Management shall approve vouchers and the state auditor shall draw warrants to pay expenditures authorized by this Act.

Section 3. Any amounts appropriated in this Act not lawfully expended or obligated shall revert in accordance with the procedures prescribed in chapter 4-8.

Section 4. Whereas, this Act is necessary for the support of the state government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

Signed March 14, 2023

Chapter 201

(Senate Bill 21)

An Act to make an appropriation for costs related to the Black Hills National Forest Land and Resource Management Plan revision process and to declare an emergency.

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

Section 1. There is hereby appropriated from the general fund the sum of $500,000 to the Department of Agriculture and Natural Resources, for the purpose of creating a one-to-one cost-share program, available to the five counties in this state that have Black Hills National Forest System lands within their boundaries, to allow for the counties' participation in the Black Hills National Forest Land and Resource Management Plan revision process.

The Division of Resource Conservation and Forestry, within the Department of Agriculture and Natural Resources, shall design and administer the cost-share program and provide grants to the eligible counties, provided no one county is entitled to receive more than fifty-five percent of the moneys allocated for the program.

Section 2. There is hereby appropriated from the general fund the sum of $450,000 to the Department of Agriculture and Natural Resources, for the purpose of employing

one full-time-equivalent staff person, during the Black Hills National Forest Land and Resource Management Plan revision process.

The state forester shall fill the position, with the consent of the Department of Agriculture and Natural Resources. The person employed in accordance with this section shall:

(1) Participate with forest resource stakeholders, on behalf of the state forester; and

(2) Complete other duties as assigned, to facilitate the engagement of the state forester with the Black Hills National Forest Land and Resource Management Plan revision process.

Section 3. The secretary of the Department of Agriculture and Natural Resources shall approve vouchers and the state auditor shall draw warrants to pay expenditures authorized by this Act.

Section 4. Any amounts appropriated in this Act not lawfully expended or obligated shall revert in accordance with the procedures prescribed in chapter 4-8.

Section 5. Whereas, this Act is necessary for the support of the state government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

Signed March 15, 2023

Chapter 202

(Senate Bill 172)

An Act to make an appropriation for design costs related to the health services center at Black Hills State University–Rapid City, and to declare an emergency.

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

Section 1. There is hereby appropriated from the general fund the sum of $1,500,000 to the Board of Regents to contract for design, architectural, and engineering services of an addition for the health sciences center at Black Hills State University-Rapid City, as authorized by the Legislature in section 1 of chapter 198 of the 2022 Session Laws.

Section 2. Any amounts appropriated in this Act not lawfully expended or obligated shall revert in accordance with the procedures prescribed in chapter 4-8.

Section 3. The Executive Director of the Board of Regents shall approve vouchers and the state auditor draw warrants to pay expenditures authorized by this Act.

Section 4. Whereas, this Act is necessary for the support of the state government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

Signed March 23, 2023

Chapter 203

(Senate Bill 161)

An Act to make an appropriation to the Office of the Secretary of State for voter roll maintenance, ballot machines, and election security.

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

Section 1. There is hereby appropriated from the general fund the sum of $313,107 and the sum of $3,000,000 in federal fund expenditure authority to the Office of the Secretary of State, for voter roll maintenance, ballot machines, and election security.

Section 2. The secretary of state shall approve vouchers and the state auditor shall draw warrants to pay expenditures authorized by this Act.

Section 3. Any amounts appropriated in this Act not lawfully expended or obligated by June 30, 2026, shall revert in accordance with the procedures prescribed in chapter 4-8.

Section 4. This Act is effective June 26, 2023.

Signed March 21, 2023

Chapter 204

(Senate Bill 173)

An Act to make an appropriation for design costs related to the new Lincoln Hall at Northern State University, and to declare an emergency.

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

Section 1. There is hereby appropriated from the general fund the sum of $1,500,000 to the Board of Regents to contract for design, architectural, and engineering services of the new Lincoln Hall at Northern State University, as authorized by the Legislature in section 1 of chapter 199 of the 2022 Session Laws.

Section 2. Any amounts appropriated in this Act not lawfully expended or obligated shall revert in accordance with the procedures prescribed in chapter 4-8.

Section 3. The Executive Director of the Board of Regents shall approve vouchers and the state auditor draw warrants to pay expenditures authorized by this Act.

Section 4. Whereas, this Act is necessary for the support of the state government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

Signed March 17, 2023

Chapter 205

(Senate Bill 35)

An Act to make an appropriation to expand laboratory space at the Sanford Underground Research Facility and to declare an emergency.

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

Section 1. There is hereby appropriated from the general fund the sum of $13,000,000 to the South Dakota Science and Technology Authority, for purposes of expanding laboratory space at the Sanford Underground Research Facility.

Section 2. The executive director of the South Dakota Science and Technology Authority shall approve vouchers and the state auditor shall draw warrants to pay expenditures authorized by this Act.

Section 3. Any amounts appropriated in this Act not lawfully expended or obligated shall revert in accordance with the procedures prescribed in chapter 4-8.

Section 4. Whereas, this Act is necessary for the support of the state government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

Signed March 23, 2023

Chapter 206

(House Bill 1127)

An Act to make an appropriation to support volunteer fire departments and to declare an emergency.

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

Section 1. There is hereby appropriated from the general fund the sum of $5,000,000 to the Department of Public Safety, for the purpose of providing grants to support volunteer fire departments in this state.

Section 2. The grants resulting from the appropriation provided in section 1 of this Act may only be used for the purpose of purchasing individual firefighter safety equipment.

Section 3. For purposes of this Act, individual safety equipment is limited to any personal protective equipment worn and used by firefighters in the performance of their duties, including helmets, flash hoods, masks, coats, pants, gloves, boots, breathing apparatuses, spare tanks, and other personal gear that may be required by individual volunteer fire departments.

Section 4. The secretary of the Department of Public Safety shall approve vouchers submitted by the South Dakota Firefighter Association, and the state auditor shall draw warrants to pay expenditures authorized by this Act.

Section 5. For the purposes of this Act, volunteer fire department means any fire department within this state whose membership is comprised of at least seventy percent unpaid and volunteer firefighters.

Section 6. Any amounts appropriated in this Act not lawfully expended or obligated by June 30, 2027, shall revert in accordance with the procedures prescribed in chapter 4-8.

Section 7. This grant will be administered by the South Dakota Firefighters Association under the supervision of the Department of Public Safety.

Section 8. Whereas, this Act is necessary for the support of the state government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

Signed March 16, 2023

Chapter 207

(Senate Bill 16)

An Act to make an appropriation to rehabilitate the rail line from the city of Milbank to the city of Sisseton and to declare an emergency.

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

Section 1. There is hereby appropriated from the general fund the sum of $6,250,000 to the railroad trust fund for the purpose of the payment of eligible expenses associated with the rehabilitation of the rail line from the city of Milbank to the city of Sisseton. This appropriation is contingent upon the receipt of federal grant money for the rail line rehabilitation.

Section 2. The secretary of the Department of Transportation shall approve vouchers and the state auditor shall draw warrants to pay expenditures authorized by this Act.

Section 3. Any amounts appropriated in this Act not lawfully expended or obligated by June 30, 2031, shall revert in accordance with the procedures prescribed in chapter 4-8.

Section 4. Whereas, this Act is necessary for the support of the state government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

Signed March 20, 2023

Chapter 208

(Senate Bill 59)

An Act to make an appropriation to the Department of Education for grants to support career and technical education programs, and to declare an emergency.

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

Section 1. There is hereby appropriated from the general fund the sum of $5,000,000 to the Department of Education, for the purpose of providing grants to school districts or multidistricts for equipment for new or existing career and technical education programs.

Section 2. The Department of Education shall consider applications and award grants. To be eligible for a grant, a school district must partner, or intend to partner, with another school district or multidistrict to offer the applicable career and technical education program. The department shall give preference to a school district or multidistrict that:

(1) Promotes, or intends to promote, postsecondary education and workforce training education in conjunction with secondary education; or
(2) Identifies sufficient future local sources of funding for ongoing operating and maintenance costs associated with the new or existing career and technical education program.

The Department of Education may only award a grant to a school district or multidistrict in an amount equal to, or less than, the amount of monies that the school district or multidistrict has secured from local sources on a dollar-for-dollar basis for the career and technical education program.

Section 3. The Department of Education shall accept applications for grants provided by this Act no later than June 30, 2024.

Section 4. The secretary of the Department of Education shall approve vouchers and the state auditor shall draw warrants to pay expenditures authorized by this Act.

Section 5. Any amounts appropriated in this Act not lawfully expended or obligated shall revert in accordance with the procedures prescribed in chapter 4-8.

Section 6. Whereas, this Act is necessary for the support of the state government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

Signed March 17, 2023

Chapter 209

(House Bill 1022)

An Act to make an appropriation for increased costs related to the construction of the new state public health laboratory, and to declare an emergency.

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

Section 1. There is hereby appropriated from the general fund the sum of $12,800,000 to the Department of Health, for cost increases related to the new state public health laboratory established under 2022 Session Laws, chapter 208, § 2.

Section 2. The secretary of the Department of Health shall approve vouchers and the state auditor shall draw warrants to pay expenditures authorized by this Act.

Section 3. Any amounts appropriated in this Act not lawfully expended or obligated shall revert in accordance with the procedures prescribed in chapter 4-8.

Section 4. Whereas, this Act is necessary for the support of the state government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

Signed March 23, 2023

Chapter 210

(House Bill 1049)

An Act to revise the General Appropriations Act for fiscal year 2023.

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

Section 1. That section 3 of chapter 191 of the 2022 Session Laws be amended to read:

BUREAU OF FINANCE AND MANAGEMENT (BFM)

(6) Employee Compensation and Billing Pools

Operating Expenses, General Funds, delete "$1,613,134" and insert "$2,689,726"

Operating Expenses, Federal Funds, delete "$583,610" and insert "$888,411"

Operating Expenses, Other Funds, delete "$1,775,573" and insert "$3,205,120"

Section 2. That section 4 of chapter 191 of the 2022 Session Laws be amended to read:

BUREAU OF ADMINISTRATION (BOA)

(2) Central Services

Operating Expenses, Other Funds, delete "$20,099,286" and insert "$19,412,443"

Section 3. That section 5 of chapter 191 of the 2022 Session Laws be amended to read:

BUREAU OF INFORMATION AND TELECOMMUNICATIONS (BIT)

(4) South Dakota Public Broadcasting

Operating Expenses, General Funds, delete "$1,418,271" and insert "$1,578,671"

Section 4. That section 7 of chapter 191 of the 2022 Session Laws be amended to read:

DEPARTMENT OF REVENUE

(1) Administration, Secretary of Revenue

Operating Expenses, Other Funds, delete "$1,792,944" and insert "$2,182,944"

(3) Motor Vehicles

Operating Expenses, Federal Funds, delete "$318,147" and insert "$534,847"

Operating Expenses, Other Funds, delete "$6,621,618" and insert "$7,371,618"

(8) Commission on Gaming - Informational

Operating Expenses, Other Funds, delete "$9,620,274" and insert "$9,657,774"

Section 5. That section 10 of chapter 191 of the 2022 Session Laws be amended to read:

DEPARTMENT OF GAME, FISH AND PARKS

(4) State Parks and Recreation

Operating Expenses, Other Funds, delete "$11,334,165" and insert "$12,084,165"

Section 6. That section 12 of chapter 191 of the 2022 Session Laws be amended to read:

DEPARTMENT OF SOCIAL SERVICES

(1) Administration, Secretary of Social Services

Personal Services, General Funds, delete "$5,865,612" and insert "$5,938,927"

Personal Services, Federal Funds, delete "$7,288,124" and insert "$7,361,439"

Operating Expenses, General Funds, delete "$6,019,521" and insert "$6,056,105"

Operating Expenses, Federal Funds, delete "$12,724,016" and insert "$12,760,600"

F.T.E, delete "205.2" and insert "207.7"

(2) Economic Assistance

Personal Services, General Funds, delete "$9,531,843" and insert "$10,055,315"

Personal Services, Federal Funds, delete "$13,048,759" and insert "$13,572,231"

Operating Expenses, General Funds, delete "$18,475,447" and insert "$18,840,982"

Operating Expenses, Federal Funds, delete "$71,053,657" and insert "$71,419,192"

F.T.E, delete "320.5" and insert "336.5"

(3) Medical Services

Personal Services, General Funds, delete "$1,543,201" and insert "$2,087,712"

Personal Services, Federal Funds, delete "$3,083,798" and insert "$3,628,309"

Operating Expenses, General Funds, delete "$271,858,285" and insert "$236,046,566"

Operating Expenses, Federal Funds, delete "$472,240,985" and insert "$569,194,974"

F.T.E, delete "56.0" and insert "70.0"

(4) Children's Services

Personal Services, General Funds, delete "$14,036,357" and insert "$14,080,177"

Personal Services, Federal Funds, delete "$10,256,416" and insert "$10,300,236"

Operating Expenses, General Funds, delete "$42,815,424" and insert "$40,162,452"

Operating Expenses, Federal Funds, delete "$55,607,114" and insert "$58,277,336"

F.T.E, delete "350.3" and insert "351.8"

(5) Behavioral Health

Personal Services, General Funds, delete "$37,001,588" and insert "$36,270,662"

Personal Services, Federal Funds, delete "$8,867,431" and insert "$9,598,357"

Operating Expenses, General Funds, delete "$74,014,342" and insert "$72,408,454"

Operating Expenses, Federal Funds, delete "$39,885,274" and insert "$41,722,911"

Section 7. That section 13 of chapter 191 of the 2022 Session Laws be amended to read:

DEPARTMENT OF HEALTH

(2) Healthcare Access and Quality and Health Prevention

Personal Services, Other Funds, delete "$72,273" and insert "$287,123"

Operating Expenses, General Funds, delete "$2,895,228" and insert "$2,847,957"

Operating Expenses, Federal Funds, delete "$10,767,147" and insert "$10,814,418"

Operating Expenses, Other Funds, delete "$1,172,571" and insert "$1,564,689"

(5) Correctional Health

Operating Expenses, Other Funds, delete "$16,594,637" and insert "$16,843,292"

(6) Tobacco Prevention

Operating Expenses, Other Funds, delete "$4,500,237" and insert "$5,500,237"

(18) Board of Massage Therapy - Informational

Personal Services, Other Funds, delete "$1,717" and insert "$41,840"

Operating Expenses, Other Funds, delete "$81,996" and insert "$41,873"

F.T.E, delete "0.0" and insert "0.6"

Section 8. That section 14 of chapter 191 of the 2022 Session Laws be amended to read:

DEPARTMENT OF LABOR AND REGULATION

(3) Field Operations

Personal Services, Federal Funds, delete "$10,526,204" and insert "$10,790,872"

Operating Expenses, Federal Funds, delete "$2,645,856" and insert "$2,684,746"

F.T.E, delete "163.0" and insert "167.0"

(11) Real Estate Commission - Informational

Personal Services, Other Funds, delete "$401,468" and insert "$361,345"

F.T.E, delete "5.1" and insert "4.5"

Section 9. That section 15 of chapter 191 of the 2022 Session Laws be amended to read:

DEPARTMENT OF TRANSPORTATION

(1) General Operations

Personal Services, Other Funds, delete "$70,447,383" and insert "$71,247,383"

Operating Expenses, Other Funds, delete "$101,636,861" and insert "$113,726,555"

(2) Construction Contracts - Informational

Operating Expenses, Federal Funds, delete "$367,068,873" and insert "$749,068,873"

Operating Expenses, Other Funds, delete "$144,544,285" and insert "$211,544,285"

Section 10. That section 16 of chapter 191 of the 2022 Session Laws be amended to read:

DEPARTMENT OF EDUCATION

(3) State Aid to General Education

Operating Expenses, General Funds, delete "$552,842,123" and insert "$543,252,123"

(5) Sparsity Payments

Operating Expenses, General Funds, delete "$2,123,230" and insert "$2,082,830"

(8) Technical Colleges

Operating Expenses, General Funds, delete "$26,978,109" and insert "$26,567,105"

(11) Education Resources

Operating Expenses, General Funds, delete "$8,329,177" and insert "$8,121,815"

Operating Expenses, Federal Funds, delete "$185,847,499" and insert "$198,642,444"

Section 11. That section 17 of chapter 191 of the 2022 Session Laws be amended to read:

DEPARTMENT OF PUBLIC SAFETY

(1) Administration, Secretary of Public Safety

Operating Expenses, General Funds, delete "$701,968" and insert "$746,733"

Operating Expenses, Other Funds, delete "$3,386,854" and insert "$3,875,942"

(2) Highway Patrol

Operating Expenses, Federal Funds, delete "$2,733,228" and insert "$2,939,380"

Operating Expenses, Other Funds, delete "$6,996,295" and insert "$8,183,222"

(3) Emergency Services

Operating Expenses, General Funds, delete "$906,991" and insert "$959,628"

Section 12. That section 18 of chapter 191 of the 2022 Session Laws be amended to read:

BOARD OF REGENTS

(1) Board of Regents Central Office

Operating Expenses, General Funds, delete "$23,033,854" and insert "$46,313,454"

(3) South Dakota Scholarships

Operating Expenses, General Funds, delete "$6,512,930" and insert "$5,937,930"

(4) University of South Dakota

Operating Expenses, General Funds, delete "$3,714,485" and insert "$4,052,074"

(7) South Dakota State University

Operating Expenses, General Funds, delete "$5,781,590" and insert "$6,503,248"

(10) SD School of Mines and Technology

Operating Expenses, General Funds, delete "$966,496" and insert "$1,430,042"

(11) Northern State University

Operating Expenses, General Funds, delete "$1,042,961" and insert "$1,137,217"

(13) Black Hills State University

Operating Expenses, General Funds, delete "$721,819" and insert "$792,140"

(14) Dakota State University

Operating Expenses, General Funds, delete "$785,223" and insert "$766,001"

(15) SD School for the Deaf

Operating Expenses, General Funds, delete "$670,748" and insert "$637,161"

(16) SD School for the Blind and Visually Impaired

Operating Expenses, General Funds, delete "$559,498" and insert "$547,993"

Section 13. That section 19 of chapter 191 of the 2022 Session Laws be amended to read:

DEPARTMENT OF THE MILITARY

(2) Army Guard

Operating Expenses, General Funds, delete "$2,540,982" and insert "$2,626,423"

Operating Expenses, Federal Funds, delete "$15,726,901" and insert "$16,126,622"

(3) Air Guard

Operating Expenses, General Funds, delete "$297,753" and insert "$635,560"

Operating Expenses, Federal Funds, delete "$2,845,140" and insert "$2,929,588"

Section 14. That section 20 of chapter 191 of the 2022 Session Laws be amended to read:

DEPARTMENT OF VETERANS' AFFAIRS

(2) State Veterans' Home

Personal Services, General Funds, delete "$2,264,467" and insert "$1,945,160"

Personal Services, Federal Funds, delete "$2,919,687" and insert "$3,238,994"

Operating Expenses, Other Funds, delete "$3,347,597" and insert "$3,864,361"

Section 15. That section 21 of chapter 191 of the 2022 Session Laws be amended to read:

DEPARTMENT OF CORRECTIONS

(1) Administration

Personal Services, General Funds, delete "$1,972,389" and insert "$2,658,571"

Operating Expenses, General Funds, delete "$1,989,485" and insert "$2,010,515"

F.T.E, delete "23.0" and insert "29.0"

(2) Mike Durfee State Prison

Operating Expenses, General Funds, delete "$7,595,539" and insert "$8,062,828"

(3) State Penitentiary

Personal Services, General Funds, delete "$20,991,373" and insert "$20,405,191"

Operating Expenses, General Funds, delete "$7,652,049" and insert "$8,047,298"

F.T.E, delete "327.0" and insert "321.0"

(4) Women's Prison

Operating Expenses, General Funds, delete "$2,545,999" and insert "$5,425,682"

(5) Pheasantland Industries

Operating Expenses, Other Funds, delete "$3,569,074" and insert "$4,071,414"

(6) Inmate Services

Personal Services, General Funds, delete "$3,355,427" and insert "$3,255,427"

Operating Expenses, General Funds, delete "$33,213,916" and insert "$33,462,571"

(8) Juvenile Community Corrections

Operating Expenses, General Funds, delete "$9,053,219" and insert "$8,340,301"

Operating Expenses, Federal Funds, delete "$2,316,751" and insert "$2,517,605"

Section 16. That section 22 of chapter 191 of the 2022 Session Laws be amended to read:

DEPARTMENT OF HUMAN SERVICES

(2) Developmental Disabilities

Operating Expenses, General Funds, delete "$89,766,239" and insert "$84,872,295"

Operating Expenses, Federal Funds, delete "$125,872,651" and insert "$137,460,916"

Operating Expenses, Other Funds, delete "$6,671,525" and insert "$5,751,208"

(3) South Dakota Developmental Center - Redfield

Personal Services, General Funds, delete "$8,243,634" and insert "$6,534,718"

Personal Services, Federal Funds, delete "$11,000,847" and insert "$11,501,513"

Operating Expenses, General Funds, delete "$2,367,100" and insert "$2,058,060"

Operating Expenses, Federal Funds, delete "$2,999,048" and insert "$3,308,865"

F.T.E, delete "297.6" and insert "279.1"

(4) Long Term Services and Supports

Operating Expenses, General Funds, delete "$113,755,847" and insert "$93,183,472"

Operating Expenses, Federal Funds, delete "$151,086,542" and insert "$157,088,427"

(5) Rehabilitation Services

Operating Expenses, General Funds, delete "$4,447,743" and insert "$4,101,101"

Operating Expenses, Federal Funds, delete "$13,707,748" and insert "$14,054,390"

Section 17. That section 25 of chapter 191 of the 2022 Session Laws be amended to read:

UNIFIED JUDICIAL SYSTEM

(2) Unified Judicial System

Operating Expenses, General Funds, delete "$6,241,692" and insert "$5,826,273"

Section 18. That section 26 of chapter 191 of the 2022 Session Laws be amended to read:

LEGISLATIVE BRANCH

(1) Legislative Operations

SLE, General Funds, delete "$7,565,246" and insert "$7,593,989"

(3) Auditor General

Operating Expenses, General Funds, delete "$440,443" and insert "$640,443"

Section 19. That section 27 of chapter 191 of the 2022 Session Laws be amended to read:

OFFICE OF THE ATTORNEY GENERAL

(2) Criminal Investigation

Operating Expenses, General Funds, delete "$2,474,654" and insert "$5,102,926"

Operating Expenses, Federal Funds, delete "$1,975,352" and insert "$4,292,673"

(3) Law Enforcement Training

Operating Expenses, Federal Funds, delete "$0" and insert "$131,000"

Section 20. That section 29 of chapter 191 of the 2022 Session Laws be amended to read:

SECRETARY OF STATE

(1) Secretary of State

Operating Expenses, Federal Funds, delete "$1,213,161" and insert "$5,713,161"

Section 21. That Section 40 of chapter 191 of the 2022 Session Laws be amended to read:

By June 30, 2023, the state treasurer shall transfer to the Incarceration Construction Fund the sum of ~~$70,000,000~~ $78,206,857 from the state general fund.

Section 22. Adjust all totals accordingly in sections 1 to 20, inclusive, of this Act.

Section 23. Funds appropriated by this Act which are unspent at the end of Fiscal year 2023 may be carried over to fiscal year 2024.

Section 24. This Act is effective June 28, 2023.

Signed March 20, 2023

Chapter 211
(Senate Bill 210)

An Act to appropriate money for the ordinary expenses of the legislative, judicial, and executive departments of the state, the current expenses of state institutions, interest on the public debt, and for common schools.

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

Section 1. There is hereby appropriated out of any money in the state treasury not otherwise appropriated the following sums of money or expenditure authority, or so

much thereof as may be necessary, for the ordinary expenses of the legislative, judicial, and executive departments of the state, certain officers, boards, and commissions, and support and maintenance of the educational, charitable, and penal institutions of the state for the fiscal year ending June 30, 2024.

	GENERAL FUNDS	FEDERAL FUNDS	OTHER FUNDS	TOTAL FUNDS
SECTION 2. OFFICE OF THE GOVERNOR				
(1) Office of the Governor				
Personal Services	$2,185,269	$0	$0	$2,185,269
Operating Expenses	$489,907	$0	$0	$489,907
Total	$2,675,176	$0	$0	$2,675,176
FTE				21.5
(2) Governor's Contingency Fund				
Operating Expenses	$75,000	$0	$0	$75,000
Total	$75,000	$0	$0	$75,000
FTE				0.0
(3) Governor's Office of Economic Development				
Personal Services	$2,752,221	$360,967	$872,137	$3,985,325
Operating Expenses	$2,311,017	$28,669,970	$39,415,692	$70,396,679
Total	$5,063,238	$29,030,937	$40,287,829	$74,382,004
FTE				41.6
(4) SD Housing Development Authority - Informational				
Personal Services	$0	$1,903,221	$4,899,329	$6,802,550
Operating Expenses	$0	$787,726	$12,135,778	$12,923,504
Total	$0	$2,690,947	$17,035,107	$19,726,054
FTE				76.0
(5) SD Science and Tech Authority - Informational				
Personal Services	$0	$0	$116,436	$116,436
Operating Expenses	$0	$0	$558,953	$558,953
Total	$0	$0	$675,389	$675,389
FTE				1.0
(6) Ellsworth Authority - Informational				
Operating Expenses	$0	$0	$847,394	$847,394
Total	$0	$0	$847,394	$847,394
FTE				0.0
(7) REDI Grants				
Operating Expenses	$0	$0	$1,626,608	$1,626,608
Total	$0	$0	$1,626,608	$1,626,608
FTE				0.0

	GENERAL FUNDS	FEDERAL FUNDS	OTHER FUNDS	TOTAL FUNDS
(8) Local Infrastructure Improvement				
Operating Expenses	$1,470,000	$0	$1,470,000	$2,940,000
Total	$1,470,000	$0	$1,470,000	$2,940,000
FTE				0.0
(9) Economic Development Partnership				
Operating Expenses	$0	$0	$50,000	$50,000
Total	$0	$0	$50,000	$50,000
FTE				0.0
(10) SD Housing Opportunity				
Operating Expenses	$1,040,000	$0	$3,040,000	$4,080,000
Total	$1,040,000	$0	$3,040,000	$4,080,000
FTE				0.0
(11) Workforce Education				
Operating Expenses	$490,000	$0	$0	$490,000
Total	$490,000	$0	$0	$490,000
FTE				0.0
(12) Lt. Governor				
Personal Services	$24,779	$0	$0	$24,779
Operating Expenses	$14,430	$0	$0	$14,430
Total	$39,209	$0	$0	$39,209
FTE				0.5
(13) DEPARTMENT TOTAL, OFFICE OF THE GOVERNOR				
Personal Services	$4,962,269	$2,264,188	$5,887,902	$13,114,359
Operating Expenses	$5,890,354	$29,457,696	$59,144,425	$94,492,475
Total	$10,852,623	$31,721,884	$65,032,327	$107,606,834
FTE				140.6

SECTION 3. BUREAU OF FINANCE AND MANAGEMENT (BFM)

(1) Bureau of Finance and Management				
Personal Services	$1,065,198	$0	$3,268,520	$4,333,718
Operating Expenses	$317,243	$0	$4,262,965	$4,580,208
Total	$1,382,441	$0	$7,531,485	$8,913,926
FTE				43.0
(2) Computer Services and Development				
Operating Expenses	$0	$0	$2,000,000	$2,000,000
Total	$0	$0	$2,000,000	$2,000,000
FTE				0.0

	GENERAL FUNDS	FEDERAL FUNDS	OTHER FUNDS	TOTAL FUNDS
(3) Coronavirus Stimulus Pool				
Operating Expenses	$0	$100,000,000	$0	$100,000,000
Total	$0	$100,000,000	$0	$100,000,000
FTE				0.0
(4) Building Authority - Informational				
Personal Services	$0	$0	$2,870	$2,870
Operating Expenses	$0	$0	$1,097,361	$1,097,361
Total	$0	$0	$1,100,231	$1,100,231
FTE				0.0
(5) Health and Education Facilities Authority - Informational				
Personal Services	$0	$0	$626,790	$626,790
Operating Expenses	$0	$0	$278,339	$278,339
Total	$0	$0	$905,129	$905,129
FTE				5.0
(6) Employee Compensation and Billing Pools				
Personal Services	$65,082,132	$27,059,748	$69,060,881	$161,202,761
Operating Expenses	$2,643,031	$1,455,510	$4,430,477	$8,529,018
Total	$67,725,163	$28,515,258	$73,491,358	$169,731,779
FTE				0.0
(7) Educational Enhancement Funding Corporation - Informational				
Operating Expenses	$0	$0	$139,955	$139,955
Total	$0	$0	$139,955	$139,955
FTE				0.0
(8) DEPARTMENT TOTAL, BUREAU OF FINANCE AND MANAGEMENT (BFM)				
Personal Services	$66,147,330	$27,059,748	$72,959,061	$166,166,139
Operating Expenses	$2,960,274	$101,455,510	$12,209,097	$116,624,881
Total	$69,107,604	$128,515,258	$85,168,158	$282,791,020
FTE				48.0

SECTION 4. BUREAU OF ADMINISTRATION (BOA)

(1) Administrative Services				
Personal Services	$0	$0	$457,930	$457,930
Operating Expenses	$683	$0	$118,818	$119,501
Total	$683	$0	$576,748	$577,431
FTE				3.5
(2) Central Services				
Personal Services	$227,198	$0	$8,339,344	$8,566,542
Operating Expenses	$216,987	$0	$19,601,992	$19,818,979
Total	$444,185	$0	$27,941,336	$28,385,521
FTE				134.5

	GENERAL FUNDS	FEDERAL FUNDS	OTHER FUNDS	TOTAL FUNDS
(3) State Engineer				
Personal Services	$0	$0	$1,433,922	$1,433,922
Operating Expenses	$0	$0	$319,560	$319,560
Total	$0	$0	$1,753,482	$1,753,482
FTE				16.0
(4) Statewide Maintenance and Repair				
Operating Expenses	$18,473,478	$500,000	$3,839,246	$22,812,724
Total	$18,473,478	$500,000	$3,839,246	$22,812,724
FTE				0.0
(5) Office of Hearing Examiners				
Personal Services	$314,599	$0	$0	$314,599
Operating Expenses	$81,909	$0	$0	$81,909
Total	$396,508	$0	$0	$396,508
FTE				3.0
(6) Obligation Recovery Center				
Operating Expenses	$0	$0	$720,000	$720,000
Total	$0	$0	$720,000	$720,000
FTE				0.0
(7) Risk Management Administration - Informational				
Personal Services	$0	$0	$736,808	$736,808
Operating Expenses	$0	$0	$3,474,158	$3,474,158
Total	$0	$0	$4,210,966	$4,210,966
FTE				8.0
(8) Risk Management Claims - Informational				
Operating Expenses	$0	$0	$2,226,476	$2,226,476
Total	$0	$0	$2,226,476	$2,226,476
FTE				0.0
(9) Captive Insurance Pool				
Operating Expenses	$0	$0	$1,836,000	$1,836,000
Total	$0	$0	$1,836,000	$1,836,000
FTE				0.0
(10) DEPARTMENT TOTAL, BUREAU OF ADMINISTRATION (BOA)				
Personal Services	$541,797	$0	$10,968,004	$11,509,801
Operating Expenses	$18,773,057	$500,000	$32,136,250	$51,409,307
Total	$19,314,854	$500,000	$43,104,254	$62,919,108
FTE				165.0

	GENERAL FUNDS	FEDERAL FUNDS	OTHER FUNDS	TOTAL FUNDS
SECTION 5. BUREAU OF INFORMATION AND TELECOMMUNICATIONS (BIT)				
(1) Data Centers				
Personal Services	$0	$0	$6,426,331	$6,426,331
Operating Expenses	$0	$0	$6,086,626	$6,086,626
Total	$0	$0	$12,512,957	$12,512,957
FTE				66.0
(2) Development				
Personal Services	$0	$0	$13,339,693	$13,339,693
Operating Expenses	$0	$0	$2,252,755	$2,252,755
Total	$0	$0	$15,592,448	$15,592,448
FTE				142.0
(3) Telecommunications Services				
Personal Services	$0	$0	$9,507,457	$9,507,457
Operating Expenses	$0	$0	$17,800,262	$17,800,262
Total	$0	$0	$27,307,719	$27,307,719
FTE				99.0
(4) South Dakota Public Broadcasting				
Personal Services	$3,411,147	$0	$1,373,591	$4,784,738
Operating Expenses	$1,470,797	$272,484	$2,896,642	$4,639,923
Total	$4,881,944	$272,484	$4,270,233	$9,424,661
FTE				63.5
(5) BIT Administration				
Personal Services	$0	$0	$1,792,902	$1,792,902
Operating Expenses	$0	$0	$4,534,558	$4,534,558
Total	$0	$0	$6,327,460	$6,327,460
FTE				16.0
(6) State Radio Engineering				
Personal Services	$1,013,429	$11,991	$13,769	$1,039,189
Operating Expenses	$3,420,565	$85,558	$144,077	$3,650,200
Total	$4,433,994	$97,549	$157,846	$4,689,389
FTE				11.0
(7) DEPARTMENT TOTAL, BUREAU OF INFORMATION AND TELECOMMUNICATIONS (BIT)				
Personal Services	$4,424,576	$11,991	$32,453,743	$36,890,310
Operating Expenses	$4,891,362	$358,042	$33,714,920	$38,964,324
Total	$9,315,938	$370,033	$66,168,663	$75,854,634
FTE				397.5

	GENERAL FUNDS	FEDERAL FUNDS	OTHER FUNDS	TOTAL FUNDS
SECTION 6. BUREAU OF HUMAN RESOURCES (BHR)				
(1) Personnel Management/Employee Benefits				
Personal Services	$252,841	$0	$5,710,261	$5,963,102
Operating Expenses	$65,273	$0	$2,543,342	$2,608,615
Total	$318,114	$0	$8,253,603	$8,571,717
FTE				73.5
(2) DEPARTMENT TOTAL, BUREAU OF HUMAN RESOURCES (BHR)				
Personal Services	$252,841	$0	$5,710,261	$5,963,102
Operating Expenses	$65,273	$0	$2,543,342	$2,608,615
Total	$318,114	$0	$8,253,603	$8,571,717
FTE				73.5
SECTION 7. DEPARTMENT OF REVENUE				
(1) Administration, Secretary of Revenue				
Personal Services	$0	$0	$2,688,880	$2,688,880
Operating Expenses	$0	$0	$1,814,429	$1,814,429
Total	$0	$0	$4,503,309	$4,503,309
FTE				30.0
(2) Business Tax				
Personal Services	$0	$0	$5,115,620	$5,115,620
Operating Expenses	$0	$0	$853,320	$853,320
Total	$0	$0	$5,968,940	$5,968,940
FTE				69.5
(3) Motor Vehicles				
Personal Services	$0	$0	$3,297,663	$3,297,663
Operating Expenses	$0	$329,819	$6,721,518	$7,051,337
Total	$0	$329,819	$10,019,181	$10,349,000
FTE				49.0
(4) Property Taxes				
Personal Services	$749,827	$0	$0	$749,827
Operating Expenses	$272,520	$0	$0	$272,520
Total	$1,022,347	$0	$0	$1,022,347
FTE				9.0
(5) Audits				
Personal Services	$0	$0	$4,718,996	$4,718,996
Operating Expenses	$0	$0	$651,574	$651,574
Total	$0	$0	$5,370,570	$5,370,570
FTE				57.0

	GENERAL FUNDS	FEDERAL FUNDS	OTHER FUNDS	TOTAL FUNDS
(6) Instant and On-line Operations - Informational				
Personal Services	$0	$0	$1,714,471	$1,714,471
Operating Expenses	$0	$0	$60,992,648	$60,992,648
Total	$0	$0	$62,707,119	$62,707,119
FTE				21.0
(7) Video Lottery				
Personal Services	$0	$0	$849,317	$849,317
Operating Expenses	$0	$0	$1,956,050	$1,956,050
Total	$0	$0	$2,805,367	$2,805,367
FTE				10.0
(8) Commission on Gaming - Informational				
Personal Services	$0	$0	$1,249,415	$1,249,415
Operating Expenses	$0	$0	$9,804,710	$9,804,710
Total	$0	$0	$11,054,125	$11,054,125
FTE				16.0
(9) DEPARTMENT TOTAL, DEPARTMENT OF REVENUE				
Personal Services	$749,827	$0	$19,634,362	$20,384,189
Operating Expenses	$272,520	$329,819	$82,794,249	$83,396,588
Total	$1,022,347	$329,819	$102,428,611	$103,780,777
FTE				261.5

SECTION 8. DEPARTMENT OF AGRICULTURE AND NATURAL RESOURCES

(1) Administration, Secretary of Agriculture				
Personal Services	$1,077,570	$413,932	$293,747	$1,785,249
Operating Expenses	$829,190	$839,526	$357,930	$2,026,646
Total	$1,906,760	$1,253,458	$651,677	$3,811,895
FTE				19.0
(2) Agricultural and Environmental Services				
Personal Services	$3,213,376	$3,217,310	$2,917,743	$9,348,429
Operating Expenses	$643,776	$3,472,908	$1,487,956	$5,604,640
Total	$3,857,152	$6,690,218	$4,405,699	$14,953,069
FTE				95.9
(3) Resource Conservation & Forestry				
Personal Services	$1,640,805	$1,424,535	$365,575	$3,430,915
Operating Expenses	$401,524	$1,516,743	$1,132,068	$3,050,335
Total	$2,042,329	$2,941,278	$1,497,643	$6,481,250
FTE				45.1
(4) Animal Industry Board				
Personal Services	$2,151,849	$1,346,588	$155,757	$3,654,194
Operating Expenses	$413,286	$682,273	$3,520,758	$4,616,317
Total	$2,565,135	$2,028,861	$3,676,515	$8,270,511

	GENERAL FUNDS	FEDERAL FUNDS	OTHER FUNDS	TOTAL FUNDS
FTE				42.0
(5) American Dairy Association - Informational				
Operating Expenses	$0	$0	$4,835,400	$4,835,400
Total	$0	$0	$4,835,400	$4,835,400
FTE				0.0
(6) Wheat Commission - Informational				
Personal Services	$0	$0	$221,871	$221,871
Operating Expenses	$0	$0	$1,352,519	$1,352,519
Total	$0	$0	$1,574,390	$1,574,390
FTE				3.0
(7) Oilseeds Council - Informational				
Personal Services	$0	$0	$1,802	$1,802
Operating Expenses	$0	$0	$538,600	$538,600
Total	$0	$0	$540,402	$540,402
FTE				0.0
(8) Soybean Research and Promotion Council - Informational				
Personal Services	$0	$0	$750,027	$750,027
Operating Expenses	$0	$0	$14,012,648	$14,012,648
Total	$0	$0	$14,762,675	$14,762,675
FTE				9.0
(9) Brand Board - Informational				
Personal Services	$0	$0	$2,064,183	$2,064,183
Operating Expenses	$0	$0	$545,877	$545,877
Total	$0	$0	$2,610,060	$2,610,060
FTE				35.0
(10) Corn Utilization Council - Informational				
Operating Expenses	$0	$0	$5,282,044	$5,282,044
Total	$0	$0	$5,282,044	$5,282,044
FTE				0.0
(11) Board of Veterinary Medical Examiners - Informational				
Personal Services	$0	$0	$3,067	$3,067
Operating Expenses	$0	$0	$56,721	$56,721
Total	$0	$0	$59,788	$59,788
FTE				0.0
(12) Pulse Crops Council - Informational				
Personal Services	$0	$0	$1,487	$1,487
Operating Expenses	$0	$0	$66,801	$66,801
Total	$0	$0	$68,288	$68,288
FTE				0.0

	GENERAL FUNDS	FEDERAL FUNDS	OTHER FUNDS	TOTAL FUNDS
(13) State Fair				
Personal Services	$0	$0	$1,340,128	$1,340,128
Operating Expenses	$324,740	$0	$3,137,243	$3,461,983
Total	$324,740	$0	$4,477,371	$4,802,111
FTE				21.5
(14) Financial and Technical Assistance				
Personal Services	$1,850,012	$1,126,697	$812,237	$3,788,946
Operating Expenses	$403,254	$1,389,024	$198,916	$1,991,194
Total	$2,253,266	$2,515,721	$1,011,153	$5,780,140
FTE				32.0
(15) Office of Water				
Personal Services	$1,419,334	$1,390,977	$1,008,508	$3,818,819
Operating Expenses	$341,900	$814,454	$408,597	$1,564,951
Total	$1,761,234	$2,205,431	$1,417,105	$5,383,770
FTE				50.0
(16) Livestock Cleanup Fund - Informational				
Operating Expenses	$0	$0	$765,000	$765,000
Total	$0	$0	$765,000	$765,000
FTE				0.0
(17) Regulated Response Fund - Informational				
Operating Expenses	$0	$0	$1,750,001	$1,750,001
Total	$0	$0	$1,750,001	$1,750,001
FTE				0.0
(18) Petroleum Release Compensation				
Personal Services	$0	$0	$332,487	$332,487
Operating Expenses	$0	$0	$74,864	$74,864
Total	$0	$0	$407,351	$407,351
FTE				3.0
(19) Petroleum Release Compensation - Informational				
Operating Expenses	$0	$0	$2,100,000	$2,100,000
Total	$0	$0	$2,100,000	$2,100,000
FTE				0.0
(20) DEPARTMENT TOTAL, DEPARTMENT OF AGRICULTURE AND NATURAL RESOURCES				
Personal Services	$11,352,946	$8,920,039	$10,268,619	$30,541,604
Operating Expenses	$3,357,670	$8,714,928	$41,623,943	$53,696,541
Total	$14,710,616	$17,634,967	$51,892,562	$84,238,145
FTE				355.5

	GENERAL FUNDS	FEDERAL FUNDS	OTHER FUNDS	TOTAL FUNDS
SECTION 9. DEPARTMENT OF TOURISM				
(1) Tourism				
Personal Services	$0	$0	$2,383,678	$2,383,678
Operating Expenses	$0	$8,750,000	$18,804,369	$27,554,369
Total	$0	$8,750,000	$21,188,047	$29,938,047
FTE				34.7
(2) Arts				
Personal Services	$0	$64,988	$313,654	$378,642
Operating Expenses	$0	$819,110	$917,428	$1,736,538
Total	$0	$884,098	$1,231,082	$2,115,180
FTE				4.0
(3) DEPARTMENT TOTAL, DEPARTMENT OF TOURISM				
Personal Services	$0	$64,988	$2,697,332	$2,762,320
Operating Expenses	$0	$9,569,110	$19,721,797	$29,290,907
Total	$0	$9,634,098	$22,419,129	$32,053,227
FTE				38.7
SECTION 10. DEPARTMENT OF GAME, FISH AND PARKS				
(1) Administration, Secretary of Game, Fish and Parks				
Personal Services	$168,591	$0	$2,578,600	$2,747,191
Operating Expenses	$825,900	$0	$1,573,832	$2,399,732
Total	$994,491	$0	$4,152,432	$5,146,923
FTE				29.3
(2) Wildlife - Informational				
Personal Services	$0	$5,362,664	$17,827,007	$23,189,671
Operating Expenses	$0	$12,456,259	$23,220,439	$35,676,698
Total	$0	$17,818,923	$41,047,446	$58,866,369
FTE				295.5
(3) Wildlife, Development, and Improvement - Informational				
Operating Expenses	$0	$4,697,875	$2,665,000	$7,362,875
Total	$0	$4,697,875	$2,665,000	$7,362,875
FTE				0.0
(4) State Parks and Recreation				
Personal Services	$3,291,371	$1,132,827	$9,335,764	$13,759,962
Operating Expenses	$2,454,970	$2,987,162	$11,900,776	$17,342,908
Total	$5,746,341	$4,119,989	$21,236,540	$31,102,870
FTE				250.0
(5) State Parks and Recreation - Development and Improvement				
Operating Expenses	$0	$5,009,000	$10,807,000	$15,816,000
Total	$0	$5,009,000	$10,807,000	$15,816,000
FTE				0.0

	GENERAL FUNDS	FEDERAL FUNDS	OTHER FUNDS	TOTAL FUNDS
(6) Snowmobile Trails - Informational				
Personal Services	$0	$0	$457,770	$457,770
Operating Expenses	$0	$0	$961,729	$961,729
Total	$0	$0	$1,419,499	$1,419,499
FTE				9.1
(7) DEPARTMENT TOTAL, DEPARTMENT OF GAME, FISH AND PARKS				
Personal Services	$3,459,962	$6,495,491	$30,199,141	$40,154,594
Operating Expenses	$3,280,870	$25,150,296	$51,128,776	$79,559,942
Total	$6,740,832	$31,645,787	$81,327,917	$119,714,536
FTE				583.9

SECTION 11. DEPARTMENT OF TRIBAL RELATIONS

(1) Office of Tribal Relations				
Personal Services	$603,876	$0	$0	$603,876
Operating Expenses	$158,177	$0	$196,000	$354,177
Total	$762,053	$0	$196,000	$958,053
FTE				7.0
(2) DEPARTMENT TOTAL, DEPARTMENT OF TRIBAL RELATIONS				
Personal Services	$603,876	$0	$0	$603,876
Operating Expenses	$158,177	$0	$196,000	$354,177
Total	$762,053	$0	$196,000	$958,053
FTE				7.0

SECTION 12. DEPARTMENT OF SOCIAL SERVICES

(1) Administration, Secretary of Social Services				
Personal Services	$6,329,257	$7,779,790	$12,032	$14,121,079
Operating Expenses	$6,563,950	$13,276,182	$12,130	$19,852,262
Total	$12,893,207	$21,055,972	$24,162	$33,973,341
FTE				210.2
(2) Economic Assistance				
Personal Services	$11,069,187	$14,774,929	$28,775	$25,872,891
Operating Expenses	$20,700,854	$71,828,383	$317,023	$92,846,260
Total	$31,770,041	$86,603,312	$345,798	$118,719,151
FTE				352.5
(3) Medical Services				
Personal Services	$2,809,254	$4,415,823	$0	$7,225,077
Operating Expenses	$360,088,669	$1,091,247,910	$280,701	$1,451,617,280
Total	$362,897,923	$1,095,663,733	$280,701	$1,458,842,357
FTE				86.0

	GENERAL FUNDS	FEDERAL FUNDS	OTHER FUNDS	TOTAL FUNDS
(4) Children's Services				
Personal Services	$14,895,962	$10,784,824	$2,058,195	$27,738,981
Operating Expenses	$53,701,709	$66,086,985	$3,081,885	$122,870,579
Total	$68,597,671	$76,871,809	$5,140,080	$150,609,560
FTE				353.3
(5) Behavioral Health				
Personal Services	$36,515,675	$9,684,888	$1,165,814	$47,366,377
Operating Expenses	$92,662,880	$60,406,375	$4,090,458	$157,159,713
Total	$129,178,555	$70,091,263	$5,256,272	$204,526,090
FTE				576.0
(6) Board of Counselor Examiners - Informational				
Personal Services	$0	$0	$6,754	$6,754
Operating Expenses	$0	$0	$100,494	$100,494
Total	$0	$0	$107,248	$107,248
FTE				0.0
(7) Board of Psychology Examiners - Informational				
Personal Services	$0	$0	$9,366	$9,366
Operating Expenses	$0	$0	$76,171	$76,171
Total	$0	$0	$85,537	$85,537
FTE				0.0
(8) Board of Social Work Examiners - Informational				
Personal Services	$0	$0	$6,598	$6,598
Operating Expenses	$0	$0	$121,461	$121,461
Total	$0	$0	$128,059	$128,059
FTE				0.0
(9) Board of Addiction and Prevention Professionals - Informational				
Personal Services	$0	$0	$10,087	$10,087
Operating Expenses	$0	$0	$176,726	$176,726
Total	$0	$0	$186,813	$186,813
FTE				0.0
(10) DEPARTMENT TOTAL, DEPARTMENT OF SOCIAL SERVICES				
Personal Services	$71,619,335	$47,440,254	$3,297,621	$122,357,210
Operating Expenses	$533,718,062	$1,302,845,835	$8,257,049	$1,844,820,946
Total	$605,337,397	$1,350,286,089	$11,554,670	$1,967,178,156
FTE				1,578.0

SECTION 13. DEPARTMENT OF HEALTH

(1) Administration, Secretary of Health				
Personal Services	$1,492,160	$2,369,780	$244,419	$4,106,359
Operating Expenses	$1,870,091	$12,558,893	$513,594	$14,942,578
Total	$3,362,251	$14,928,673	$758,013	$19,048,937

	GENERAL FUNDS	FEDERAL FUNDS	OTHER FUNDS	TOTAL FUNDS
FTE				43.5
(2) Licensure and Accreditation				
Personal Services	$2,022,691	$3,143,803	$1,234,072	$6,400,566
Operating Expenses	$1,358,599	$1,213,689	$2,612,874	$5,185,162
Total	$3,381,290	$4,357,492	$3,846,946	$11,585,728
FTE				68.5
(3) Family and Community Health				
Personal Services	$2,880,870	$12,357,847	$1,466,676	$16,705,393
Operating Expenses	$3,243,795	$34,942,335	$5,363,037	$43,549,167
Total	$6,124,665	$47,300,182	$6,829,713	$60,254,560
FTE				195.5
(4) Laboratory Services				
Personal Services	$0	$1,138,568	$2,055,471	$3,194,039
Operating Expenses	$0	$12,772,476	$1,998,440	$14,770,916
Total	$0	$13,911,044	$4,053,911	$17,964,955
FTE				32.0
(5) Tobacco Prevention				
Personal Services	$0	$287,101	$0	$287,101
Operating Expenses	$0	$1,318,927	$4,500,251	$5,819,178
Total	$0	$1,606,028	$4,500,251	$6,106,279
FTE				3.0
(6) Epidemiology, Surveillance & Informatics				
Personal Services	$160,180	$744,492	$0	$904,672
Operating Expenses	$156,992	$3,079,031	$0	$3,236,023
Total	$317,172	$3,823,523	$0	$4,140,695
FTE				9.0
(7) Board of Chiropractic Examiners - Informational				
Personal Services	$0	$0	$95,814	$95,814
Operating Expenses	$0	$0	$45,652	$45,652
Total	$0	$0	$141,466	$141,466
FTE				1.0
(8) Board of Dentistry - Informational				
Personal Services	$0	$0	$11,017	$11,017
Operating Expenses	$0	$0	$490,828	$490,828
Total	$0	$0	$501,845	$501,845
FTE				0.0
(9) Board of Hearing Aid Dispensers and Audiologists - Informational				
Personal Services	$0	$0	$1,854	$1,854
Operating Expenses	$0	$0	$30,344	$30,344

	GENERAL FUNDS	FEDERAL FUNDS	OTHER FUNDS	TOTAL FUNDS
Total	$0	$0	$32,198	$32,198
FTE				0.0
(10) Board of Funeral Service - Informational				
Personal Services	$0	$0	$4,260	$4,260
Operating Expenses	$0	$0	$86,857	$86,857
Total	$0	$0	$91,117	$91,117
FTE				0.0
(11) Board of Medical and Osteopathic Examiners - Informational				
Personal Services	$0	$0	$626,169	$626,169
Operating Expenses	$0	$0	$585,354	$585,354
Total	$0	$0	$1,211,523	$1,211,523
FTE				8.0
(12) Board of Nursing - Informational				
Personal Services	$0	$0	$984,017	$984,017
Operating Expenses	$0	$0	$863,118	$863,118
Total	$0	$0	$1,847,135	$1,847,135
FTE				9.0
(13) Board of Nursing Home Administrators - Informational				
Personal Services	$0	$0	$3,575	$3,575
Operating Expenses	$0	$0	$66,728	$66,728
Total	$0	$0	$70,303	$70,303
FTE				0.0
(14) Board of Optometry - Informational				
Personal Services	$0	$0	$1,704	$1,704
Operating Expenses	$0	$0	$74,316	$74,316
Total	$0	$0	$76,020	$76,020
FTE				0.0
(15) Board of Pharmacy - Informational				
Personal Services	$0	$85,242	$827,925	$913,167
Operating Expenses	$0	$400,000	$664,493	$1,064,493
Total	$0	$485,242	$1,492,418	$1,977,660
FTE				6.4
(16) Board of Podiatry Examiners - Informational				
Personal Services	$0	$0	$328	$328
Operating Expenses	$0	$0	$21,785	$21,785
Total	$0	$0	$22,113	$22,113
FTE				0.0

	GENERAL FUNDS	FEDERAL FUNDS	OTHER FUNDS	TOTAL FUNDS
(17) Board of Massage Therapy - Informational				
Personal Services	$0	$0	$41,943	$41,943
Operating Expenses	$0	$0	$61,873	$61,873
Total	$0	$0	$103,816	$103,816
FTE				0.6
(18) Board of Speech Language Pathology - Informational				
Personal Services	$0	$0	$1,294	$1,294
Operating Expenses	$0	$0	$50,924	$50,924
Total	$0	$0	$52,218	$52,218
FTE				0.0
(19) Board of Certified Professional Midwives - Informational				
Personal Services	$0	$0	$1,216	$1,216
Operating Expenses	$0	$0	$19,578	$19,578
Total	$0	$0	$20,794	$20,794
FTE				0.0
(20) Board of Physical Therapy - Informational				
Operating Expenses	$0	$0	$150,000	$150,000
Total	$0	$0	$150,000	$150,000
FTE				0.0
(21) DEPARTMENT TOTAL, DEPARTMENT OF HEALTH				
Personal Services	$6,555,901	$20,126,833	$7,601,754	$34,284,488
Operating Expenses	$6,629,477	$66,285,351	$18,200,046	$91,114,874
Total	$13,185,378	$86,412,184	$25,801,800	$125,399,362
FTE				376.5

SECTION 14. DEPARTMENT OF LABOR AND REGULATION

(1) Administration, Secretary of Labor				
Personal Services	$64,660	$3,863,359	$209,078	$4,137,097
Operating Expenses	$1,389,132	$7,942,694	$109,203	$9,441,029
Total	$1,453,792	$11,806,053	$318,281	$13,578,126
FTE				52.6
(2) Reemployment Assistance				
Personal Services	$0	$5,302,428	$0	$5,302,428
Operating Expenses	$0	$3,776,540	$0	$3,776,540
Total	$0	$9,078,968	$0	$9,078,968
FTE				80.0
(3) Job Service				
Personal Services	$644,007	$11,335,924	$0	$11,979,931
Operating Expenses	$124,214	$2,712,481	$0	$2,836,695
Total	$768,221	$14,048,405	$0	$14,816,626
FTE				167.0

	GENERAL FUNDS	FEDERAL FUNDS	OTHER FUNDS	TOTAL FUNDS
(4) State Labor Law Administration				
Personal Services	$727,749	$274,094	$307,603	$1,309,446
Operating Expenses	$110,465	$64,847	$253,950	$429,262
Total	$838,214	$338,941	$561,553	$1,738,708
FTE				15.3
(5) Board of Accountancy - Informational				
Personal Services	$0	$0	$181,552	$181,552
Operating Expenses	$0	$0	$178,105	$178,105
Total	$0	$0	$359,657	$359,657
FTE				2.6
(6) Board of Barber Examiners - Informational				
Personal Services	$0	$0	$17,080	$17,080
Operating Expenses	$0	$0	$9,692	$9,692
Total	$0	$0	$26,772	$26,772
FTE				0.2
(7) Cosmetology Commission - Informational				
Personal Services	$0	$0	$274,587	$274,587
Operating Expenses	$0	$0	$129,203	$129,203
Total	$0	$0	$403,790	$403,790
FTE				4.3
(8) Plumbing Commission - Informational				
Personal Services	$0	$0	$611,719	$611,719
Operating Expenses	$0	$0	$246,896	$246,896
Total	$0	$0	$858,615	$858,615
FTE				8.1
(9) Board of Technical Professions - Informational				
Personal Services	$0	$0	$206,013	$206,013
Operating Expenses	$0	$0	$187,284	$187,284
Total	$0	$0	$393,297	$393,297
FTE				3.1
(10) Electrical Commission - Informational				
Personal Services	$0	$0	$1,821,022	$1,821,022
Operating Expenses	$0	$0	$563,531	$563,531
Total	$0	$0	$2,384,553	$2,384,553
FTE				23.1
(11) Real Estate Commission - Informational				
Personal Services	$0	$0	$382,398	$382,398
Operating Expenses	$0	$0	$237,827	$237,827
Total	$0	$0	$620,225	$620,225

	GENERAL FUNDS	FEDERAL FUNDS	OTHER FUNDS	TOTAL FUNDS
FTE				4.5
(12) Abstracters Board of Examiners - Informational				
Personal Services	$0	$0	$8,205	$8,205
Operating Expenses	$0	$0	$48,427	$48,427
Total	$0	$0	$56,632	$56,632
FTE				0.0
(13) South Dakota Athletic Commission - Informational				
Personal Services	$0	$0	$12,115	$12,115
Operating Expenses	$0	$0	$47,880	$47,880
Total	$0	$0	$59,995	$59,995
FTE				0.0
(14) Banking				
Personal Services	$0	$0	$3,834,387	$3,834,387
Operating Expenses	$0	$0	$1,107,203	$1,107,203
Total	$0	$0	$4,941,590	$4,941,590
FTE				39.5
(15) Trust Captive Insurance Company - Informational				
Personal Services	$0	$0	$5,000	$5,000
Operating Expenses	$0	$0	$201,766	$201,766
Total	$0	$0	$206,766	$206,766
FTE				0.0
(16) Insurance				
Personal Services	$0	$23,246	$3,343,513	$3,366,759
Operating Expenses	$0	$20,000	$884,479	$904,479
Total	$0	$43,246	$4,227,992	$4,271,238
FTE				40.7
(17) DEPARTMENT TOTAL, DEPARTMENT OF LABOR AND REGULATION				
Personal Services	$1,436,416	$20,799,051	$11,214,272	$33,449,739
Operating Expenses	$1,623,811	$14,516,562	$4,205,446	$20,345,819
Total	$3,060,227	$35,315,613	$15,419,718	$53,795,558
FTE				441.0

SECTION 15. DEPARTMENT OF TRANSPORTATION

(1) General Operations				
Personal Services	$615,384	$13,425,819	$75,171,442	$89,212,645
Operating Expenses	$25,866	$40,364,103	$107,556,013	$147,945,982
Total	$641,250	$53,789,922	$182,727,455	$237,158,627
FTE				1,014.3
(2) Construction Contracts - Informational				
Operating Expenses	$0	$795,068,873	$194,544,285	$989,613,158

	GENERAL FUNDS	FEDERAL FUNDS	OTHER FUNDS	TOTAL FUNDS
Total	$0	$795,068,873	$194,544,285	$989,613,158
FTE				0.0
(3) DEPARTMENT TOTAL, DEPARTMENT OF TRANSPORTATION				
Personal Services	$615,384	$13,425,819	$75,171,442	$89,212,645
Operating Expenses	$25,866	$835,432,976	$302,100,298	$1,137,559,140
Total	$641,250	$848,858,795	$377,271,740	$1,226,771,785
FTE				1,014.3

SECTION 16. DEPARTMENT OF EDUCATION

(1) General Administration				
Personal Services	$2,275,877	$1,456,164	$269,412	$4,001,453
Operating Expenses	$1,480,421	$150,770,975	$113,463	$152,364,859
Total	$3,756,298	$152,227,139	$382,875	$156,366,312
FTE				46.5
(2) Workforce Education Fund				
Operating Expenses	$0	$0	$1,125,000	$1,125,000
Total	$0	$0	$1,125,000	$1,125,000
FTE				0.0
(3) State Aid to General Education				
Operating Expenses	$592,301,908	$0	$0	$592,301,908
Total	$592,301,908	$0	$0	$592,301,908
FTE				0.0
(4) State Aid to Special Education				
Operating Expenses	$83,000,475	$0	$0	$83,000,475
Total	$83,000,475	$0	$0	$83,000,475
FTE				0.0
(5) Sparsity Payments				
Operating Expenses	$2,135,619	$0	$0	$2,135,619
Total	$2,135,619	$0	$0	$2,135,619
FTE				0.0
(6) National Board Certified Teachers and Counselors				
Operating Expenses	$87,625	$0	$0	$87,625
Total	$87,625	$0	$0	$87,625
FTE				0.0
(7) Technology in Schools				
Operating Expenses	$12,666,787	$0	$2,094,957	$14,761,744
Total	$12,666,787	$0	$2,094,957	$14,761,744
FTE				0.0

	GENERAL FUNDS	FEDERAL FUNDS	OTHER FUNDS	TOTAL FUNDS
(8) Technical Colleges				
Personal Services	$321,304	$0	$0	$321,304
Operating Expenses	$38,988,722	$0	$185,696	$39,174,418
Total	$39,310,026	$0	$185,696	$39,495,722
FTE				3.0
(9) Education Resources				
Personal Services	$2,121,642	$4,026,759	$329,388	$6,477,789
Operating Expenses	$8,324,293	$185,859,133	$737,326	$194,920,752
Total	$10,445,935	$189,885,892	$1,066,714	$201,398,541
FTE				79.0
(10) History				
Personal Services	$1,722,714	$483,017	$966,452	$3,172,183
Operating Expenses	$1,782,190	$812,835	$906,134	$3,501,159
Total	$3,504,904	$1,295,852	$1,872,586	$6,673,342
FTE				40.0
(11) Library Services				
Personal Services	$1,236,600	$419,907	$0	$1,656,507
Operating Expenses	$887,011	$896,607	$27,900	$1,811,518
Total	$2,123,611	$1,316,514	$27,900	$3,468,025
FTE				21.5
(12) DEPARTMENT TOTAL, DEPARTMENT OF EDUCATION				
Personal Services	$7,678,137	$6,385,847	$1,565,252	$15,629,236
Operating Expenses	$741,655,051	$338,339,550	$5,190,476	$1,085,185,077
Total	$749,333,188	$344,725,397	$6,755,728	$1,100,814,313
FTE				190.0
SECTION 17. DEPARTMENT OF PUBLIC SAFETY				
(1) Administration, Secretary of Public Safety				
Personal Services	$388,023	$193,751	$7,294,631	$7,876,405
Operating Expenses	$766,725	$196,850	$3,803,202	$4,766,777
Total	$1,154,748	$390,601	$11,097,833	$12,643,182
FTE				111.0
(2) Highway Patrol				
Personal Services	$705,606	$1,558,059	$21,485,318	$23,748,983
Operating Expenses	$1,000,991	$2,739,598	$8,950,238	$12,690,827
Total	$1,706,597	$4,297,657	$30,435,556	$36,439,810
FTE				278.0
(3) Emergency Services				
Personal Services	$2,506,979	$2,312,322	$307,789	$5,127,090
Operating Expenses	$954,684	$8,045,525	$660,687	$9,660,896
Total	$3,461,663	$10,357,847	$968,476	$14,787,986

	GENERAL FUNDS	FEDERAL FUNDS	OTHER FUNDS	TOTAL FUNDS
FTE				75.8
(4) Criminal Justice Services				
Personal Services	$241,537	$1,491,641	$295,463	$2,028,641
Operating Expenses	$431,272	$20,779,298	$2,245,156	$23,455,726
Total	$672,809	$22,270,939	$2,540,619	$25,484,367
FTE				21.0
(5) 911 Coordination Board - Informational				
Personal Services	$0	$0	$217,516	$217,516
Operating Expenses	$0	$250,000	$4,397,287	$4,647,287
Total	$0	$250,000	$4,614,803	$4,864,803
FTE				2.0
(6) One-Call Board - Informational				
Personal Services	$0	$0	$250,000	$250,000
Operating Expenses	$0	$0	$1,115,850	$1,115,850
Total	$0	$0	$1,365,850	$1,365,850
FTE				2.0
(7) DEPARTMENT TOTAL, DEPARTMENT OF PUBLIC SAFETY				
Personal Services	$3,842,145	$5,555,773	$29,850,717	$39,248,635
Operating Expenses	$3,153,672	$32,011,271	$21,172,420	$56,337,363
Total	$6,995,817	$37,567,044	$51,023,137	$95,585,998
FTE				489.8
SECTION 18. BOARD OF REGENTS				
(1) Board of Regents Central Office				
Personal Services	$5,295,672	$575,000	$2,364,689	$8,235,361
Operating Expenses	$27,177,812	$5,400,000	$43,454,166	$76,031,978
Total	$32,473,484	$5,975,000	$45,818,855	$84,267,339
FTE				66.5
(2) Research Pool				
Operating Expenses	$4,672,951	$0	$0	$4,672,951
Total	$4,672,951	$0	$0	$4,672,951
FTE				0.0
(3) South Dakota Scholarships				
Operating Expenses	$6,534,519	$0	$0	$6,534,519
Total	$6,534,519	$0	$0	$6,534,519
FTE				0.0
(4) University of South Dakota				
Personal Services	$38,956,834	$7,876,405	$57,296,291	$104,129,530
Operating Expenses	$4,494,852	$3,480,360	$40,931,405	$48,906,617
Total	$43,451,686	$11,356,765	$98,227,696	$153,036,147

	GENERAL FUNDS	FEDERAL FUNDS	OTHER FUNDS	TOTAL FUNDS
FTE				1,074.9
(5) University of South Dakota Law School				
Personal Services	$1,929,834	$79,292	$2,644,524	$4,653,650
Operating Expenses	$206,263	$2,483	$1,078,380	$1,287,126
Total	$2,136,097	$81,775	$3,722,904	$5,940,776
FTE				34.3
(6) University of South Dakota School of Medicine				
Personal Services	$23,163,740	$6,645,078	$15,962,142	$45,770,960
Operating Expenses	$3,723,939	$5,289,271	$10,086,556	$19,099,766
Total	$26,887,679	$11,934,349	$26,048,698	$64,870,726
FTE				360.5
(7) South Dakota State University				
Personal Services	$51,868,650	$9,125,895	$93,276,611	$154,271,156
Operating Expenses	$7,470,025	$14,601,840	$71,119,211	$93,191,076
Total	$59,338,675	$23,727,735	$164,395,822	$247,462,232
FTE				1,561.7
(8) SDSU Extension				
Personal Services	$9,330,172	$3,685,667	$1,253,983	$14,269,822
Operating Expenses	$305,191	$3,294,905	$1,476,940	$5,077,036
Total	$9,635,363	$6,980,572	$2,730,923	$19,346,858
FTE				180.4
(9) Agricultural Experiment Station				
Personal Services	$13,422,411	$5,811,425	$6,181,011	$25,414,847
Operating Expenses	$628,281	$5,869,911	$9,837,942	$16,336,134
Total	$14,050,692	$11,681,336	$16,018,953	$41,750,981
FTE				236.3
(10) SD School of Mines and Technology				
Personal Services	$19,555,078	$6,203,978	$25,486,691	$51,245,747
Operating Expenses	$1,685,766	$6,717,596	$19,044,721	$27,448,083
Total	$21,240,844	$12,921,574	$44,531,412	$78,693,830
FTE				448.4
(11) Northern State University				
Personal Services	$13,524,235	$1,220,046	$12,937,027	$27,681,308
Operating Expenses	$1,095,622	$974,040	$11,711,682	$13,781,344
Total	$14,619,857	$2,194,086	$24,648,709	$41,462,652
FTE				321.1
(12) NSU Center for Statewide High School E-Learning				
Personal Services	$3,364,761	$0	$0	$3,364,761
Operating Expenses	$369,418	$0	$0	$369,418

	GENERAL FUNDS	FEDERAL FUNDS	OTHER FUNDS	TOTAL FUNDS
Total	$3,734,179	$0	$0	$3,734,179
FTE				39.9
(13) Black Hills State University				
Personal Services	$11,758,960	$1,778,596	$16,584,044	$30,121,600
Operating Expenses	$1,133,064	$853,223	$11,166,088	$13,152,375
Total	$12,892,024	$2,631,819	$27,750,132	$43,273,975
FTE				339.5
(14) Dakota State University				
Personal Services	$11,496,325	$2,091,405	$23,207,538	$36,795,268
Operating Expenses	$886,987	$2,942,667	$19,245,519	$23,075,173
Total	$12,383,312	$5,034,072	$42,453,057	$59,870,441
FTE				342.8
(15) SD School for the Deaf				
Personal Services	$2,099,268	$0	$3,500	$2,102,768
Operating Expenses	$695,225	$0	$464,711	$1,159,936
Total	$2,794,493	$0	$468,211	$3,262,704
FTE				26.0
(16) SD School for the Blind and Visually Impaired				
Personal Services	$2,905,375	$59,042	$220,416	$3,184,833
Operating Expenses	$621,867	$27,835	$162,265	$811,967
Total	$3,527,242	$86,877	$382,681	$3,996,800
FTE				45.6
(17) DEPARTMENT TOTAL, BOARD OF REGENTS				
Personal Services	$208,671,315	$45,151,829	$257,418,467	$511,241,611
Operating Expenses	$61,701,782	$49,454,131	$239,779,586	$350,935,499
Total	$270,373,097	$94,605,960	$497,198,053	$862,177,110
FTE				5,077.9

SECTION 19. DEPARTMENT OF THE MILITARY

(1) Adjutant General				
Personal Services	$527,971	$0	$0	$527,971
Operating Expenses	$146,880	$10,306	$29,254	$186,440
Total	$674,851	$10,306	$29,254	$714,411
FTE				5.3
(2) Army Guard				
Personal Services	$486,690	$3,732,143	$0	$4,218,833
Operating Expenses	$2,882,924	$16,079,480	$0	$18,962,404
Total	$3,369,614	$19,811,623	$0	$23,181,237
FTE				63.1

	GENERAL FUNDS	FEDERAL FUNDS	OTHER FUNDS	TOTAL FUNDS
(3) Air Guard				
Personal Services	$267,917	$3,338,694	$0	$3,606,611
Operating Expenses	$353,992	$3,435,048	$0	$3,789,040
Total	$621,909	$6,773,742	$0	$7,395,651
FTE				48.0
(4) DEPARTMENT TOTAL, DEPARTMENT OF THE MILITARY				
Personal Services	$1,282,578	$7,070,837	$0	$8,353,415
Operating Expenses	$3,383,796	$19,524,834	$29,254	$22,937,884
Total	$4,666,374	$26,595,671	$29,254	$31,291,299
FTE				116.4

SECTION 20. DEPARTMENT OF VETERANS' AFFAIRS

(1) Veterans' Benefits and Services				
Personal Services	$1,469,029	$182,748	$0	$1,651,777
Operating Expenses	$619,054	$51,943	$61,044	$732,041
Total	$2,088,083	$234,691	$61,044	$2,383,818
FTE				22.0
(2) State Veterans' Home				
Personal Services	$2,225,412	$3,273,770	$2,582,581	$8,081,763
Operating Expenses	$0	$0	$3,653,797	$3,653,797
Total	$2,225,412	$3,273,770	$6,236,378	$11,735,560
FTE				118.2
(3) State Veterans' Cemetery				
Personal Services	$85,374	$0	$209,561	$294,935
Operating Expenses	$72,787	$0	$0	$72,787
Total	$158,161	$0	$209,561	$367,722
FTE				5.0
(4) DEPARTMENT TOTAL, DEPARTMENT OF VETERANS' AFFAIRS				
Personal Services	$3,779,815	$3,456,518	$2,792,142	$10,028,475
Operating Expenses	$691,841	$51,943	$3,714,841	$4,458,625
Total	$4,471,656	$3,508,461	$6,506,983	$14,487,100
FTE				145.2

SECTION 21. DEPARTMENT OF CORRECTIONS

(1) Administration				
Personal Services	$2,766,635	$118,634	$0	$2,885,269
Operating Expenses	$2,068,426	$868,551	$0	$2,936,977
Total	$4,835,061	$987,185	$0	$5,822,246
FTE				29.0

	GENERAL FUNDS	FEDERAL FUNDS	OTHER FUNDS	TOTAL FUNDS
(2) Mike Durfee State Prison				
Personal Services	$17,309,258	$91,588	$0	$17,400,846
Operating Expenses	$8,314,130	$28,845	$0	$8,342,975
Total	$25,623,388	$120,433	$0	$25,743,821
FTE				219.0
(3) State Penitentiary				
Personal Services	$26,131,133	$48,459	$0	$26,179,592
Operating Expenses	$8,241,983	$47,830	$0	$8,289,813
Total	$34,373,116	$96,289	$0	$34,469,405
FTE				332.0
(4) Women's Prison				
Personal Services	$6,203,344	$72,296	$0	$6,275,640
Operating Expenses	$2,692,284	$12,479	$0	$2,704,763
Total	$8,895,628	$84,775	$0	$8,980,403
FTE				79.0
(5) Pheasantland Industries				
Personal Services	$0	$0	$1,319,358	$1,319,358
Operating Expenses	$0	$0	$3,574,283	$3,574,283
Total	$0	$0	$4,893,641	$4,893,641
FTE				18.0
(6) Inmate Services				
Personal Services	$16,514,131	$71,270	$0	$16,585,401
Operating Expenses	$23,827,128	$51,500	$0	$23,878,628
Total	$40,341,259	$122,770	$0	$40,464,029
FTE				190.4
(7) Parole Services				
Personal Services	$5,388,347	$0	$0	$5,388,347
Operating Expenses	$2,382,739	$0	$0	$2,382,739
Total	$7,771,086	$0	$0	$7,771,086
FTE				75.0
(8) Juvenile Community Corrections				
Personal Services	$1,920,843	$0	$0	$1,920,843
Operating Expenses	$9,814,934	$2,786,439	$0	$12,601,373
Total	$11,735,777	$2,786,439	$0	$14,522,216
FTE				23.7
(9) DEPARTMENT TOTAL, DEPARTMENT OF CORRECTIONS				
Personal Services	$76,233,691	$402,247	$1,319,358	$77,955,296
Operating Expenses	$57,341,624	$3,795,644	$3,574,283	$64,711,551
Total	$133,575,315	$4,197,891	$4,893,641	$142,666,847
FTE				966.1

	GENERAL FUNDS	FEDERAL FUNDS	OTHER FUNDS	TOTAL FUNDS
SECTION 22. DEPARTMENT OF HUMAN SERVICES				
(1) Administration, Secretary of Human Services				
Personal Services	$1,114,076	$1,128,344	$0	$2,242,420
Operating Expenses	$374,447	$186,297	$2,754	$563,498
Total	$1,488,523	$1,314,641	$2,754	$2,805,918
FTE				27.0
(2) Developmental Disabilities				
Personal Services	$1,058,145	$1,103,901	$0	$2,162,046
Operating Expenses	$107,598,732	$171,283,702	$7,595,974	$286,478,408
Total	$108,656,877	$172,387,603	$7,595,974	$288,640,454
FTE				26.5
(3) South Dakota Developmental Center - Redfield				
Personal Services	$7,339,805	$11,273,921	$0	$18,613,726
Operating Expenses	$2,206,045	$3,187,541	$857,224	$6,250,810
Total	$9,545,850	$14,461,462	$857,224	$24,864,536
FTE				272.1
(4) Long Term Services and Supports				
Personal Services	$2,940,819	$5,186,580	$29,008	$8,156,407
Operating Expenses	$130,210,931	$193,272,309	$815,922	$324,299,162
Total	$133,151,750	$198,458,889	$844,930	$332,455,569
FTE				101.0
(5) Rehabilitation Services				
Personal Services	$1,037,356	$6,698,201	$0	$7,735,557
Operating Expenses	$4,806,484	$14,772,634	$2,441,098	$22,020,216
Total	$5,843,840	$21,470,835	$2,441,098	$29,755,773
FTE				102.1
(6) Telecommunication Devices for the Deaf				
Operating Expenses	$0	$0	$1,301,680	$1,301,680
Total	$0	$0	$1,301,680	$1,301,680
FTE				0.0
(7) Service to the Blind and Visually Impaired				
Personal Services	$593,939	$1,471,771	$216,060	$2,281,770
Operating Expenses	$472,999	$1,427,716	$305,634	$2,206,349
Total	$1,066,938	$2,899,487	$521,694	$4,488,119
FTE				29.2
(8) DEPARTMENT TOTAL, DEPARTMENT OF HUMAN SERVICES				
Personal Services	$14,084,140	$26,862,718	$245,068	$41,191,926
Operating Expenses	$245,669,638	$384,130,199	$13,320,286	$643,120,123
Total	$259,753,778	$410,992,917	$13,565,354	$684,312,049

	GENERAL FUNDS	FEDERAL FUNDS	OTHER FUNDS	TOTAL FUNDS
FTE				557.9

SECTION 23. SOUTH DAKOTA RETIREMENT SYSTEM

(1) South Dakota Retirement System				
Personal Services	$0	$0	$3,131,330	$3,131,330
Operating Expenses	$0	$0	$2,132,951	$2,132,951
Total	$0	$0	$5,264,281	$5,264,281
FTE				33.0
(2) DEPARTMENT TOTAL, SOUTH DAKOTA RETIREMENT SYSTEM				
Personal Services	$0	$0	$3,131,330	$3,131,330
Operating Expenses	$0	$0	$2,132,951	$2,132,951
Total	$0	$0	$5,264,281	$5,264,281
FTE				33.0

SECTION 24. PUBLIC UTILITIES COMMISSION

(1) Public Utilities Commission (PUC)				
Personal Services	$606,503	$230,369	$2,770,787	$3,607,659
Operating Expenses	$61,380	$65,630	$737,066	$864,076
Total	$667,883	$295,999	$3,507,853	$4,471,735
FTE				31.2
(2) DEPARTMENT TOTAL, PUBLIC UTILITIES COMMISSION				
Personal Services	$606,503	$230,369	$2,770,787	$3,607,659
Operating Expenses	$61,380	$65,630	$737,066	$864,076
Total	$667,883	$295,999	$3,507,853	$4,471,735
FTE				31.2

SECTION 25. UNIFIED JUDICIAL SYSTEM

(1) State Bar Association - Informational				
Personal Services	$0	$0	$270,501	$270,501
Operating Expenses	$0	$0	$339,219	$339,219
Total	$0	$0	$609,720	$609,720
FTE				3.0
(2) Unified Judicial System				
Personal Services	$49,176,466	$63,832	$3,392,618	$52,632,916
Operating Expenses	$6,541,084	$269,646	$9,546,543	$16,357,273
Total	$55,717,550	$333,478	$12,939,161	$68,990,189
FTE				601.7
(3) Equal Access to Our Courts				
Operating Expenses	$300,000	$0	$200,000	$500,000
Total	$300,000	$0	$200,000	$500,000
FTE				0.0

	GENERAL FUNDS	FEDERAL FUNDS	OTHER FUNDS	TOTAL FUNDS
(4) DEPARTMENT TOTAL, UNIFIED JUDICIAL SYSTEM				
Personal Services	$49,176,466	$63,832	$3,663,119	$52,903,417
Operating Expenses	$6,841,084	$269,646	$10,085,762	$17,196,492
Total	$56,017,550	$333,478	$13,748,881	$70,099,909
FTE				604.7

SECTION 26. LEGISLATIVE BRANCH

(1) Legislative Operations				
Single Line Item Appropriation	$8,218,044	$0	$0	$8,218,044
Total	$8,218,044	$0	$0	$8,218,044
FTE				33.6
(2) Legislative Priority Fund				
Single Line Item Appropriation	$0	$0	$755,066	$755,066
Total	$0	$0	$755,066	$755,066
FTE				0.0
(3) Auditor General				
Personal Services	$4,305,348	$0	$0	$4,305,348
Operating Expenses	$443,691	$0	$0	$443,691
Total	$4,749,039	$0	$0	$4,749,039
FTE				40.0
(4) DEPARTMENT TOTAL, LEGISLATIVE BRANCH				
Personal Services	$4,305,348	$0	$0	$4,305,348
Operating Expenses	$443,691	$0	$0	$443,691
Single Line Item Appropriation	$8,218,044	$0	$755,066	$8,973,110
Total	$12,967,083	$0	$755,066	$13,722,149
FTE				73.6

SECTION 27. OFFICE OF THE ATTORNEY GENERAL

(1) Legal Services Program				
Personal Services	$5,239,545	$393,800	$2,046,846	$7,680,191
Operating Expenses	$899,933	$522,400	$1,136,765	$2,559,098
Total	$6,139,478	$916,200	$3,183,611	$10,239,289
FTE				72.0
(2) Criminal Investigation				
Personal Services	$7,629,592	$1,200,587	$3,549,661	$12,379,840
Operating Expenses	$3,040,961	$2,367,043	$3,181,653	$8,589,657
Total	$10,670,553	$3,567,630	$6,731,314	$20,969,497
FTE				123.5

	GENERAL FUNDS	FEDERAL FUNDS	OTHER FUNDS	TOTAL FUNDS
(3) Law Enforcement Training				
Personal Services	$0	$0	$1,084,795	$1,084,795
Operating Expenses	$133,180	$0	$1,735,907	$1,869,087
Total	$133,180	$0	$2,820,702	$2,953,882
FTE				14.5
(4) 911 Training				
Personal Services	$0	$0	$151,357	$151,357
Operating Expenses	$0	$0	$102,024	$102,024
Total	$0	$0	$253,381	$253,381
FTE				2.0
(5) Insurance Fraud Unit - Informational				
Personal Services	$0	$0	$227,611	$227,611
Operating Expenses	$0	$0	$79,514	$79,514
Total	$0	$0	$307,125	$307,125
FTE				3.0
(6) DEPARTMENT TOTAL, OFFICE OF THE ATTORNEY GENERAL				
Personal Services	$12,869,137	$1,594,387	$7,060,270	$21,523,794
Operating Expenses	$4,074,074	$2,889,443	$6,235,863	$13,199,380
Total	$16,943,211	$4,483,830	$13,296,133	$34,723,174
FTE				215.0

SECTION 28. SCHOOL AND PUBLIC LANDS

(1) Administration of School and Public Lands				
Personal Services	$585,764	$0	$52,293	$638,057
Operating Expenses	$202,462	$0	$279,915	$482,377
Total	$788,226	$0	$332,208	$1,120,434
FTE				7.0
(2) DEPARTMENT TOTAL, SCHOOL AND PUBLIC LANDS				
Personal Services	$585,764	$0	$52,293	$638,057
Operating Expenses	$202,462	$0	$279,915	$482,377
Total	$788,226	$0	$332,208	$1,120,434
FTE				7.0

SECTION 29. SECRETARY OF STATE

(1) Secretary of State				
Personal Services	$784,399	$101,008	$364,810	$1,250,217
Operating Expenses	$631,900	$1,213,582	$341,661	$2,187,143
Total	$1,416,299	$1,314,590	$706,471	$3,437,360
FTE				15.6
(2) DEPARTMENT TOTAL, SECRETARY OF STATE				
Personal Services	$784,399	$101,008	$364,810	$1,250,217
Operating Expenses	$631,900	$1,213,582	$341,661	$2,187,143

	GENERAL FUNDS	FEDERAL FUNDS	OTHER FUNDS	TOTAL FUNDS
Total	$1,416,299	$1,314,590	$706,471	$3,437,360
FTE				15.6

SECTION 30. STATE TREASURER

(1) Treasury Management				
Personal Services	$456,422	$0	$0	$456,422
Operating Expenses	$177,331	$0	$0	$177,331
Total	$633,753	$0	$0	$633,753
FTE				5.2
(2) Unclaimed Property - Informational				
Personal Services	$0	$0	$495,244	$495,244
Operating Expenses	$0	$0	$28,701,906	$28,701,906
Total	$0	$0	$29,197,150	$29,197,150
FTE				5.8
(3) Investment of State Funds				
Personal Services	$0	$0	$8,566,018	$8,566,018
Operating Expenses	$0	$0	$2,769,386	$2,769,386
Total	$0	$0	$11,335,404	$11,335,404
FTE				35.0
(4) Performance Based Compensation				
Personal Services	$0	$0	$16,429,394	$16,429,394
Total	$0	$0	$16,429,394	$16,429,394
FTE				0.0
(5) DEPARTMENT TOTAL, STATE TREASURER				
Personal Services	$456,422	$0	$25,490,656	$25,947,078
Operating Expenses	$177,331	$0	$31,471,292	$31,648,623
Total	$633,753	$0	$56,961,948	$57,595,701
FTE				46.0

SECTION 31. STATE AUDITOR

(1) State Auditor				
Personal Services	$1,318,258	$0	$0	$1,318,258
Operating Expenses	$180,260	$0	$0	$180,260
Total	$1,498,518	$0	$0	$1,498,518
FTE				16.0
(2) DEPARTMENT TOTAL, STATE AUDITOR				
Personal Services	$1,318,258	$0	$0	$1,318,258
Operating Expenses	$180,260	$0	$0	$180,260
Total	$1,498,518	$0	$0	$1,498,518
FTE				16.0

	GENERAL FUNDS	FEDERAL FUNDS	OTHER FUNDS	TOTAL FUNDS
SECTION 32. STATE				
Personal Services	$558,396,578	$243,483,767	$623,787,783	$1,425,668,128
Operating Expenses	$1,707,856,359	$3,226,361,998	$1,006,041,294	$5,940,259,651
Single Line Item Appropriation	$8,218,044	$0	$755,066	$8,973,110
Total	$2,274,470,981	$3,469,845,765	$1,630,584,143	$7,374,900,889
FTE				14,066.4

Section 33. The state treasurer shall transfer, to the state general fund, money from the following funds, for the purposes herein indicated:

From the state highway fund:

Radio Communications Operations, $3,717,074

Governor's Office Operations, $114,067

From the game, fish and parks fund:

Radio Communications Operations, $99,039

From the game, fish and parks administrative revolving fund:

Governor's Office Operations, $19,206

From the motor vehicle fund:

Radio Communications Operations, $558,502

Section 34. The state treasurer shall transfer to the state general fund $2,000,000 from the veterans home operating fund created by § 33A-4-24.

Section 35. The state treasurer shall transfer to the state general fund money from the dakota cement trust fund, the amount identified by notice of the state investment officer pursuant to S.D. Const., Art. XIII, § 21, for the Department of Education - state aid to education.

Section 36. The state treasurer shall transfer to the state general fund money from the health care trust fund, the amount identified by notice of the state investment officer pursuant to § 4-5-29.1, for the Department of Social Services - medical services.

Section 37. The state treasurer shall transfer to the state general fund money from the education enhancement trust fund, the amount identified by notice of the state investment officer pursuant to § 4-5-29.2, for the Department of Education - state aid to education and the Board of Regents - postsecondary scholarship grant programs.

Section 38. The state treasurer shall transfer to the state animal disease research and diagnostic laboratory bond redemption and operations fund $3,350,000 from the state general fund.

Section 39. The state treasurer shall transfer to the precision agriculture fund $900,000 from the state general fund.

Signed March 20, 2023

SUPREME COURT RULES AND ORDERS

Chapter 212

SCR 22-11

SUPREME COURT RULES AND ORDERS

IN THE SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA

* * * *

IN THE MATTER OF THE AMENDMENT SDCL 1-26-33.2	RULE 22-11

A hearing was held on November 9, 2022, at Pierre, South Dakota, relating to the amendment of SDCL 1-26-33.2, and the Court having considered the proposed amendment, oral presentation relating thereto and being fully advised in the premises, now, therefore, it is

ORDERED that SDCL 1-26-33.2 be and it is hereby amended to read in its entirety as follows:

SDCL to 1-26-33.2. Time for serving briefs. Unless otherwise ordered by the circuit court, the appellant shall serve a brief within thirty days after the delivery of the transcript of the contested case hearing to counsel for the parties or to the parties if unrepresented by counsel or within thirty days after the agency record is transmitted to the circuit court pursuant to § 1-26-33, whichever event occurs later. The appellee shall serve a brief within thirty days after the service of the brief of appellant, or in the case of multiple appellants, within thirty days after service of the last appellant's brief. The appellant may serve a reply brief within ten days after service of appellee's brief, or in the case of multiple appellees, within ten days after service of the last appellee's brief. ~~Pursuant to § 15-6-5(d), briefs may not be made a part of the record.~~

IT IS FURTHER ORDERED that this rule shall become effective January 1, 2023.

DATED at Pierre, South Dakota, this 17th day of November, 2022.

Chapter 213

SCR 22-12

SUPREME COURT RULES AND ORDERS

IN THE SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA

* * * *

IN THE MATTER OF THE AMENDMENT SDCL 15-6-5 (a) through (j)	RULE 22-12

A hearing was held on November 9, 2022, at Pierre, South Dakota, relating to the amendment of SDCL 15-6-5(a) through (j), and the Court having considered the proposed amendment, oral presentation relating thereto and being fully advised in the premises, now, therefore, it is

ORDERED that SDCL 15-5A-1 be and it is hereby amended to read in its entirety as follows:

SDCL 15-6-5 (15-6-5(a) through (j)) – Service and Filing of Pleadings and Other Papers.

15-6-5(a). Service--When required.

Except as otherwise provided in this chapter, every order required by its terms to be served, every pleading subsequent to the original complaint unless the court otherwise orders because of numerous defendants, every written motion other than one which may be heard ex parte, and every written brief, notice, appearance, demand, offer of judgment, and similar paper shall be served upon each of the parties. No service need be made on parties in default for failure to appear except that pleadings asserting new or additional claims for relief against them shall be served upon them in the manner provided for service of summons in § 15-6-4.

15-6-5(b). Service--How made--Proof.

(1) Unless otherwise ordered by the court or provided by rule, ~~Whenever under~~ whenever this chapter ~~service is required~~ requires or ~~permitted~~ permits service to be made upon a party represented by an attorney, the service shall be made upon the attorney. ~~unless service upon the party himself is ordered by the court. Service upon the attorney or upon a party shall be made by delivering a copy to him or by mailing it to him at his last known address or, if no address is known, by leaving it with the clerk of the court. Service upon a party represented by an attorney may also be made by facsimile transmission as provided in § 15-6-5(f). Delivery of a copy within § 15-6-5 means: Handing it to the attorney or to the party; or leaving it at his office with his clerk or other person in charge thereof; or, if there is no one in charge, leaving it in a conspicuous place therein; or, if the office is closed or the person to be served has no office, leaving it at his dwelling house or usual place of abode with some person over the age of fourteen years then residing therein. Service by mail shall be by first class mail and is complete upon mailing. Service by facsimile transmission is complete upon receipt by the attorney receiving service. An attorney's certificate of service, the written admission of service by the party or his attorney or an affidavit shall be sufficient proof of service. In the case of service by facsimile transmission, proof of service shall state the date and time of service and the facsimile telephone number or identifying symbol of the receiving attorney. The provisions of § 15-6-5 shall not apply to the service of a summons or other process or of any paper to bring a party into contempt.~~

(2) Unless otherwise ordered by the court, all documents filed with the court electronically through the Odyssey® system or served electronically through the Odyssey® system are presumed served upon all attorneys of record at the time of submission.

(3) Documents not filed with the court may be served upon an attorney by any of the following methods:

A. electronically through the Odyssey® system;

B. by electronic mail, using the email address designated by the attorney or law firm for service, or if none, the email address published in the Membership Directory of the State Bar of South Dakota;

C. by first class mail to the attorney's last known address, which is complete upon mailing;

D. by facsimile transmission subject to the following conditions:

(i) The attorney upon whom service is made has the necessary equipment to receive such transmission;

(ii) The attorney has agreed to accept service by facsimile transmission, or has served the serving party in the same case by facsimile transmission; and

(iii) The time and manner of transmission comply with the requirements of § 15-6-6(a), unless otherwise established by the Court; or

E. by delivery to the attorney, or an employee of the attorney, at the attorney's office.

(4) An attorney's certificate of service, the written admission of service by the party or his attorney, or an affidavit of service are sufficient proof of service.

(5) Unless otherwise ordered by the court, service upon a party not represented by counsel must be made using one of the following methods:

A. by delivery to the party or leaving it at the party's dwelling house or usual place of abode with some person over the age of fourteen years then residing therein;

B. by first class mail to the party's last known address, which is complete upon mailing; or

C. if no address is known, by leaving it with the clerk of the court.

(6) The provisions of § 15-6-5 do not apply to the service of a summons or other process or of any paper to bring a party into contempt.

15-6-5(c). Service on numerous defendants.

In any action in which there are unusually large numbers of defendants, the court, upon motion or of its own initiative, may order that service of the pleadings of the defendants and replies thereto need not be made as between the defendants and that any cross-claim, counterclaim or matter constituting an avoidance or affirmative defense contained therein shall be deemed to be denied or avoided by all other parties and that the filing of any such pleading and service thereof upon the plaintiff constitutes due notice of it to the parties. A copy of every such order shall be served upon the parties in such manner and form as the court directs.

15-6-5(d). Filing of papers--Originals--Copies.

The original of all papers served upon a party or presented to any court or judge in support of any application or motion and including the summons, all pleadings, notices, demands, offers, stipulations, affidavits, written motions, briefs, memorandums of law, and orders shall, if not filed before service, be filed with the court, together with proof of such service, forthwith upon such service. The foregoing requirement of filing applies to the notice of filing of an order and the notice of entry of a judgment together with proof of service thereof, both of which shall be filed

forthwith; if not filed within ten days after service thereof, the time of service shall be deemed to be the date of filing of the notice and proof of service. If papers are not to be served, they must be filed with the court at the time of their presentation to the court for any action or consideration.

Any electronic version of any paper or document shall have the same force and effect as the original. A certified copy of an original made by electronic transmission shall have the same force and effect as a certified copy of an original.

15-6-5(e). Definition--Filing with the court.

Except as specifically exempted by these rules or court order, ~~The~~ the filing of pleadings and other papers with the court as required by this chapter ~~shall~~ must be made through the Odyssey® electronic filing system ~~by filing them~~ with the clerk of the court. Self-represented parties may file electronically, but are not required to file electronically. Upon leave of court, an attorney required to file electronically may be granted leave of court to file paper documents with the clerk of the court.~~, except that the~~ The judge may permit a party ~~the papers~~ to ~~be filed~~ file papers with him or her, in which event ~~he shall~~ the judge must note thereon the filing date and forthwith transmit them to the office of the clerk.

~~**15-6-5(f). Service by facsimile transmission (fax) to parties represented by attorney.**~~

~~Whenever under these rules service is required or permitted to be made upon a party represented by an attorney, such service may be made by facsimile transmission pursuant to the following conditions:~~

~~(1) The attorney upon whom service is made has the necessary equipment to receive such transmission;~~

~~(2) The attorney has agreed to accept service by facsimile transmission, or has served the serving party in the same case by facsimile transmission; and~~

~~(3) The time and manner of transmission comply with the requirements of § 15-6-6(a), unless otherwise established by the Court.~~

~~The signature on the facsimile shall constitute a signature under § 15-6-11(a).~~

15-6-5(g). Documents not to be filed--Depositions.

No depositions (except notices to take depositions), interrogatories, requests for documents, requests for admissions, and answers and responses thereto shall be filed with the clerk of the court except as provided in this section. Any such filing shall be made electronically in full-size print unless otherwise ordered by the court. Any exhibits to such documents shall be clearly identified and included as a separate electronic file or hyperlinked within the transcript file.

Any discovery materials necessary for the disposition of any motion filed with the court or referenced in any filing with the court shall be attached as an exhibit to ~~and filed with~~ the party's motion ~~in its entirety~~ or as an exhibit to a declaration, affidavit, or other similar filing. Financial account information filed with the court as an exhibit under this section shall be confidential pursuant to §§ 15-15A-8 and 15-15A-9, and shall remain confidential unless and until access is granted by the court under § 15-15A-10.

If any party designated any or all of any deposition as evidence to be offered in the trial of any case, such deposition shall be filed in electronic format in its entirety with the clerk of the court at the same time as that party's designation.

Depositions used by a party only for the purpose of contradicting or

impeaching the testimony of deponent as a witness, pursuant to subdivision 15-6-32(a)(1), shall not be filed unless otherwise ordered by the judge presiding at the hearing or trial.

All depositions which have been read or offered into Evidence by agreement of parties, or at the trial or submission of the case to the court, shall become a permanent part of the file.

15-6-5(h). Civil Case Filing Statements.

Whenever a party or an attorney representing a party commences a civil action, files a notice of appearance, or files an answer or first responsive pleading in a civil action, the party or attorney representing the party shall file a completed civil case filing statement containing identifying information available to that party or attorney regarding all parties, including the adverse party, with the clerk of the court. A statement must also be filed whenever a new party is added to the action. The statement shall be available from the clerk or online at the Unified Judicial System's website. The identifying information for the filing party must be submitted on the filing statement. If the party or attorney representing a party is unable to provide the required information for the filing party, he or she may seek a waiver from the judge assigned to the action. After the information is recorded in the Unified Judicial System docketing system, the filing statement may be destroyed or kept by the clerk of the court in a nonpublic file for internal record management use by the Unified Judicial System. Access to the filed statement will only be available to court personnel or by court order.

15-6-5(i). Service of discovery requests by electronic mail or portable storage media device ~~computer diskette~~--Costs.

Any party or attorney serving discovery requests pursuant to § 15-6-31, § 15-6-33, § 15-6-34 or § 15-6-36 shall also, upon receipt of a written request, serve those items on the opposing party or attorney by electronic mail or on a portable storage media device ~~computer diskette~~. Failure to comply with such a request shall not make service invalid or extend the time to file a response, but the court shall order payment of the actual costs of reproducing the item and may award such other terms as it deems proper under § 15-6-37 unless good cause for failure to comply with the request is shown.

~~**15-6-5(j). Service by electronic mail (email) to parties represented by attorney.**~~

~~Whenever under these rules service is required or permitted to be made upon a party represented by an attorney, such service may be made by email transmission pursuant to the following conditions:~~

~~(1) The attorney upon whom service is made has the necessary equipment to receive such transmission;~~

~~(2) Prior to the service, the attorney upon whom service is made has agreed in writing to accept service by email, or has served the serving party in the same case by email;~~

~~(3) The time and manner of transmission comply with the requirements of § 15-6-6(a), unless otherwise established by the court; and~~

~~(4) The sending attorney by facsimile or mail sends a certificate of service specifying the items electronically served.~~

~~The signature or electronic signature on the email shall constitute a signature under § 15-6-11(a). If within two days after the certificate of service is received, the~~

~~attorney upon whom service is made attests in writing that he or she did not receive the electronic mail submission, then service shall not have been deemed to have been made.~~

IT IS FURTHER ORDERED that this rule shall become effective January 1, 2023.

DATED at Pierre, South Dakota, this 17th day of November, 2022.

Chapter 214

SCR 22-13

SUPREME COURT RULES AND ORDERS

IN THE SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA

* * * *

IN THE MATTER OF THE AMENDMENT SDCL 15-6-45(a)	RULE 22-13

A hearing was held on November 9, 2022, at Pierre, South Dakota, relating to the amendment of SDCL 15-6-45(a), and the Court having considered the proposed amendment, oral presentation relating thereto and being fully advised in the premises, now, therefore, it is

ORDERED that SDCL 15-6-45(a) be and it is hereby amended to read in its entirety as follows:

SDCL 15-6-45(a). Subpoena for attendance of witnesses and for production of documentary evidence--Form--Issuance.

Clerks of courts, judges, magistrates, notaries public, referees, and any other public officer or agency so empowered by § 1-26-19.1 or otherwise authorized by law in any matter pending before them, upon application of any person having a cause or any matter pending in court or before such agency, officer or tribunal, may issue a subpoena for a witness or witnesses, or for the production of books, papers, documents or tangible things designated therein pursuant to the provisions of § 15-6-45(b).

Any attorney of record who has been duly admitted to practice in this state and is in good standing upon the active list of attorneys of the State Bar of South Dakota may issue a subpoena for a witness or witnesses, and for production, inspection and copying of records and exhibits, in any action or proceeding, or collateral hearing, civil or criminal, in which the attorney is the attorney of record for any party. When an attorney issues a subpoena, the attorney must contemporaneously transmit a copy thereof to the clerk of the court, or to the secretary or other filing officer of the board or tribunal in which the matter is pending, for filing. Such officer shall file such copy as one of the public records of the action or proceeding.

A subpoena shall state the name of the court, or tribunal, the title of the action or proceeding, and shall command each person to whom it is directed to attend and give testimony at a time and place therein specified. It shall state the name of the person or party for whom the testimony of the witness is required. The seal of the

court or officer, or tribunal, shall be affixed to the original and all copies, if issued by a court or officer having a seal. If the subpoena is issued by an attorney, it shall be issued in the name of the presiding officer of the court, or tribunal in which the matter is pending and shall be attested and signed by the attorney, designating the party for whom the attorney is attorney of record. A subpoena shall also include the following text in bold, capitalized type immediately above the signature of the individual signing the subpoena:

YOU SHOULD TREAT THIS DOCUMENT AS YOU WOULD A COURT ORDER. IF YOU FAIL TO COMPLY WITH THE COMMAND(S) IN THIS DOCUMENT WITHOUT ADEQUATE EXCUSE, THE COURT MAY FIND YOU IN CONTEMPT AND ASSESS MONETARY OR OTHER SANCTIONS AGAINST YOU.

YOU HAVE CERTAIN OBLIGATIONS AND RIGHTS AS IT CONCERNS THIS DOCUMENT, INCLUDING THOSE SET FORTH IN SDCL § 15-6-45(b)–(g).

YOU SHOULD CONSIDER CONTACTING AN ATTORNEY REGARDING YOUR OBLIGATIONS AND RIGHTS.

IT IS FURTHER ORDERED that this rule shall become effective January 1, 2023.

DATED at Pierre, South Dakota, this 17th day of November, 2022.

Chapter 215

SCR 22-14

SUPREME COURT RULES AND ORDERS

IN THE SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA

* * * *

IN THE MATTER OF THE AMENDMENTS OF THE APPENDIX OF FORMS TO SDCL CHAPTER 15-6 TO INCLUDE FORMS 8, 9, 14, 17, 19, 20 and 21	RULE 22-14

A hearing was held on November 9, 2022, at Pierre, South Dakota, relating to the amendments of the Appendix of Forms to SDCL Chapter 15-6 to Include Forms 8, 9, 14, 17, 19, 20 and 21, and the Court having considered the proposed amendments, oral presentation relating thereto and being fully advised in the premises, now, therefore, it is

ORDERED that the amendments of the Appendix of Forms to SDCL Chapter 15-6 to Include Forms 8, 9, 14, 17, 19, 20 and 21 be and they are hereby amended to read in their entirety as follows:

Forms 8, 9, 14, 17, 19, 20, AND 21 OF THE APPENDIX OF FORMS TO SDCL CHAPTER 15-6.

Form 8. Complaint for negligence

1. On June 1, 1956, in a public highway called Phillips Avenue in Sioux Falls, South Dakota, defendant negligently drove a motor vehicle against plaintiff who was then crossing said highway.

2. As a result plaintiff was thrown down and had his leg broken and was otherwise injured, was prevented from transacting his business, suffered great pain of body and mind, and incurred expenses for medical attention and hospitalization in the sum of one thousand dollars.

Wherefore plaintiff demands judgment against defendant in ~~the sum of _____ dollars and costs~~ an amount to be determined by the trier of fact.

Note:

Since contributory negligence is an affirmative defense, the complaint need contain no allegation of due care of plaintiff.

Form 9. Complaint for negligence where plaintiff is unable to determine definitely whether the person responsible is C.D. or E.F. or whether both are responsible ~~and where his evidence may justify a finding of willfulness or of recklessness or of negligence~~

A.B., Plaintiff
vs. COMPLAINT
C.D. and E.F., Defendants

1. On June 1, 1956, in a public highway called Phillips Avenue in Sioux Falls, South Dakota, defendant, C.D. or defendant E.F., or both defendants, C.D. and E.F. ~~willfully or recklessly or~~ negligently drove or caused to be driven a motor vehicle against plaintiff who was then crossing said highway.

2. As a result plaintiff was thrown down and had his leg broken and was otherwise injured, was prevented from transacting his business, suffered great pain of body and mind, and incurred expenses for medical attention and hospitalization in the sum of one thousand dollars.

Wherefore plaintiff demands judgment against C.D. or against E.F. or against both in the sum of _____ dollars and costs.

Form 14. Motion to dismiss, presenting defenses of failure to state a claim, of lack of service of process, and of lack of jurisdiction under § 15-6-12(b)

The defendant moves the court as follows:

1. To dismiss the action because the complaint fails to state a claim against defendant upon which relief can be granted.

2. To dismiss the action or in lieu thereof to quash the return of service of summons on the grounds (a) that the defendant is a corporation organized under the laws of Delaware and was not and is not subject to service of process within the state of South Dakota, and (b) that the defendant has not been properly served with process in this action, all of which more clearly appears in the affidavits of M.N. and X.Y. hereto annexed as Exhibit A and Exhibit B respectively.

Signed:

_____
Attorney for Defendant
Address:

_____

~~Notice of Motion~~
~~To: _____~~

Attorney for Plaintiff
_____

Please take notice, that the undersigned will bring the above motion on for hearing before this Court in the courtroom at the Court House in the City of Sioux Falls, South Dakota on the _____ day of _____, 20____, at 10 o'clock in the forenoon of that day or as soon thereafter as counsel can be heard.
Signed:
_____
Attorney for Defendant
Address: _____

Form 17. Motion to bring in third-party defendant

Defendant moves for leave to make E.F. a party to this action and that there be served upon him summons and third-party complaint as set forth in Exhibit A hereto attached.

Signed:

_____
Attorney for Defendant C.D.
Address: _____

Notice of Motion

(Contents the same as in Form 14. No notice is necessary if the motion is made before the moving defendant has served his answer).

Exhibit A

STATE OF SOUTH DAKOTA IN CIRCUIT COURT
COUNTY OF MINNEHAHA SECOND JUDICIAL CIRCUIT
A.B., Plaintiff
vs.
C.D., Defendant and Third-Party SUMMONS
Plaintiff
vs.
E.F., Third-Party Defendant

To the above-named Third-Party Defendant:

You are hereby summoned and required to serve upon _____, plaintiff's attorney whose address is _____, and upon _____, who is attorney for C.D., defendant and third-party plaintiff, and whose address is _____, an answer to the third-party complaint which is herewith served upon you and an answer to the complaint of the plaintiff, a copy of which is herewith served upon you, within 30 days after the service of this summons upon you exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the third-party complaint.

_____
Attorney for C.D.
Third-Party Plaintiff

STATE OF SOUTH DAKOTA IN CIRCUIT COURT
COUNTY OF MINNEHAHA SECOND JUDICIAL CIRCUIT A.B., Plaintiff
vs. THIRD-PARTY
C.D., Defendant and Third-Party COMPLAINT
Plaintiff
vs.
E.F., Third-Party Defendant

1. Plaintiff A.B. has filed against defendant C.D. a complaint, a copy of which is hereto attached as "Exhibit C."

2. (Here state the grounds upon which C.D. is entitled to recover from E.F., all or part of what A.B. may recover from C.D. The statement should be framed as in an original complaint.) Wherefore C.D. demands judgment against third-party

~~defendant E.F. for all sums that may be adjudged against defendant C.D. in favor of plaintiff A.B.~~

~~Signed:~~

~~Attorney for C.D.~~
~~Third-Party Plaintiff~~
~~Address:~~

~~Source: SD RCP, Form 17.~~

Form 19. ~~Motion to bring in third-party defendant~~ Notice of Hearing

~~Defendant moves for leave, as third-party plaintiff, to cause to be served upon E.F. a summons and third-party complaint, copies of which are hereto attached to Exhibit X.~~

~~Signed:~~

~~Attorney for Defendant C.D.~~
~~Address:~~

~~Notice of Motion~~
~~(Contents the same as in Form 14. The notice shall be addressed to all parties to the action.)~~
~~Exhibit X~~
~~(Contents the same as in Form 18.)~~
~~Note:~~
~~Form 19 is intended for use when, under § 15-6-14(a), leave of court is required to bring in a third-party defendant.~~

To: [adverse party] and [his/her/its] attorney[s], [attorney's[s'] address]:

PLEASE TAKE NOTICE that [moving party]'s [name of motion] will be brought on for hearing before the Honorable [name of judge], Circuit Court Judge, in the [name of County] County Courthouse, [City], South Dakota, on the day of , , at .m., or as soon thereafter as counsel can be heard.

Form 20. Motion to intervene as a defendant under § 15-6-24

STATE OF SOUTH DAKOTA IN CIRCUIT COURT
COUNTY OF MINNEHAHA SECOND JUDICIAL CIRCUIT
A.B., Plaintiff
vs. MOTION TO INTERVENE
C.D., Defendant AS A DEFENDANT
E.F., Inc., Applicant for
Intervention

E.F., Inc., moves for leave to intervene as a defendant in this action, in order to assert the defenses set forth in its proposed answer, of which a copy is hereto attached, on the ground that it is the manufacturer and vendor to the defendant of the automobile described in plaintiff's complaint, the brakes of which are alleged to have been defectively manufactured; and as such, if the allegations of plaintiff's complaint be true, would be the one ultimately liable to the plaintiff, and as such has a defense to plaintiff's claim presenting both questions of law and of fact which are common to the main action. Signed:

Attorney for E.F., Inc.,
Applicant for Intervention
Address: _____
~~Notice of Motion~~

~~(Contents the same as in Form 14)~~
STATE OF SOUTH DAKOTA IN CIRCUIT COURT
COUNTY OF MINNEHAHA SECOND JUDICIAL CIRCUIT
A.B., Plaintiff
vs. INTERVENER'S ANSWER
C.D., Defendant
E.F., Inc., Intervener

First Defense

Intervener admits the allegations stated in paragraphs 1 and 4 of the complaint; denies the allegations in paragraph 3, and denies the allegations in paragraph 2 in so far as they assert that the brakes of the automobile described in plaintiff's complaint were defectively manufactured.

Second Defense

Plaintiff was guilty of contributory negligence which proximately caused or contributed to the accident and to the personal injuries which he sustained therein, if any, in that he drove said automobile at a high rate of speed in a negligent and careless manner after the discovery of the defective condition of the brakes which contributory negligence on the part of the plaintiff was greatly more than slight in comparison to the negligence, if any, of this intervener.

Signed:

_____

Attorney for E.F., Inc.,
Intervener
Address:

_____

Note:

Under § 15-6-24 the motion to intervene must be served upon all parties as provided in § 15-6-5.

Form 21. Motion ~~for production of documents etc.~~to Compel under § ~~15-6-34~~15-6-37.

~~Plaintiff A.B. moves the court for an order requiring defendant C.D.~~
~~(1) To produce and to permit plaintiff to inspect and to copy each of the following documents: (Here list the documents and describe each of them.)~~
~~(2) To produce and permit plaintiff to inspect and to photograph each of the following objects: (Here list the objects and describe each of them.)~~
~~(3) To permit plaintiff to enter (here describe property to be entered) and to inspect and to photograph (here describe the portion of the real property and the objects to be inspected and photographed).~~
~~Defendant C.D. has the possession, custody, or control of each of the foregoing documents and objects and of the above mentioned real estate. Each of them constitutes or contains evidence relevant and material to a matter involved in this action, as is more fully shown in Exhibit A hereto attached.~~
~~Signed:~~
~~_____~~
~~Attorney for Plaintiff~~
~~Address:~~
~~_____~~
~~Notice of Motion~~
~~(Contents the same as in Form 14)~~
~~Exhibit A State of South Dakota~~
~~County of _____~~
~~A.B., being first duly sworn says:~~
~~(1) (Here set forth all that plaintiff knows which shows that defendant has the papers or objects in his possession or control).~~

~~(2) (Here set forth all that plaintiff knows which shows that each of the above-mentioned items is relevant to some issue in the action).~~

~~Signed: A.B.~~

~~(Jurat)~~

[Movant], pursuant to SDCL 15-6-37(a), respectfully moves the Court for an order compelling [opposing party] to [specific relief sought]. The Court should enter the requested order because:

1. The discovery was properly served;

2. [Opposing party] has failed to respond to the discovery;

3. Counsel for [movant] certifies that he has, in good faith, conferred or attempted to confer with [opposing party] in an effort to secure the information or material without court action;

all as set forth in the accompanying Brief in Support of [movant]'s Motion to Compel Discovery.

Attach the following certification:

Certification of Good Faith Efforts to Resolve

Counsel for [movant] hereby certifies, pursuant to SDCL 15-6-37(a)(2), that counsel attempted, in good faith, to resolve this discovery dispute without involving the Court.

On [date], the undersigned communicated to [opposing party] that [opposing party's] responses to outstanding discovery requests were inadequate because [explain what you believe you are entitled to.]

[list each successive communication, including:

a. who participated,

b. the date, and, if relevant, the time of each communication, and

c. the manner of each communication.]

Summarize the outcome of these communications, identifying the substantive dispute that has stalemated the parties' discussions, and which the Court must resolve.

IT IS FURTHER ORDERED that this rule shall become effective January 1, 2023.

DATED at Pierre, South Dakota, this 17th day of November, 2022.

Chapter 216

SCR 22-15

SUPREME COURT RULES AND ORDERS

IN THE SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA

* * * *

IN THE MATTER OF THE AMENDMENT SDCL 15-12-37	RULE 22-15

A hearing was held on November 9, 2022, at Pierre, South Dakota, relating to the amendment of SDCL 15-12-37, and the Court having considered the proposed amendment, oral presentation relating thereto and being fully advised in the premises, now, therefore, it is

ORDERED that SDCL 15-12-37 be and it is hereby amended to read in its entirety as follows:

SDCL 15-12-37. Disqualification on court's own motion.

A judge or magistrate having knowledge of a ground for self-disqualification under the guidelines established by Canon 3E ~~C~~ shall not, unless Canon 3F ~~D~~ is utilized, await the filing of an affidavit but shall remove himself on written motion to be filed in duplicate by the judge or magistrate with the clerk of courts of the county wherein the action is pending. The clerk of courts shall notify the presiding judge, and the parties or their attorneys in the manner provided by this chapter for notification on filing of an affidavit for change of judge or magistrate.

IT IS FURTHER ORDERED that this rule shall become effective January 1, 2023.

DATED at Pierre, South Dakota, this 17th day of November, 2022.

Chapter 217

SCR 22-16

SUPREME COURT RULES AND ORDERS

IN THE SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA

* * * *

IN THE MATTER OF THE ADOPTION OF A NEW RULE CONCERNING COURT REPORTER TRANSCRIPT FEES	RULE 22-16

A hearing was held on November 9, 2022, at Pierre, South Dakota, relating to the adoption of a new rule concerning court reporter transcript fees and the Court having considered the proposed adoption, oral presentation relating thereto and being fully advised in the premises, now, therefore, it is

ORDERED that the adoption of a new rule concerning court reporter transcript fees be and it is hereby amended to read in its entirety as follows:

Court Reporter Transcript Fees.

Section 1. The fee for the preparation of a transcript from a court reporter's notes of evidence is three dollars and sixty cents per page for the original. The fee for a copy,

furnished on request, is sixty-five cents per page, to be paid to the officer of the court who prepared the transcript.

Section 2. Implementation Date:

This rule change shall become effective January 1, 2023.

DATED at Pierre, South Dakota, this 17th day of November, 2022.

Chapter 218

SCR 23-01

SUPREME COURT RULES AND ORDERS

IN THE SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA

* * * *

IN THE MATTER OF THE PROPOSED AMENDMENT TO THE APPENDIX TO CHAPTER 16-16 REGULATIONS OF THE BOARD OF BAR EXAMINERS STATE OF SOUTH DAKOTA 5. ACCEPTANCE OF MULTISTATE BAR EXAMINATION RESULTS FROM OTHER STATES	RULE 23-01

A hearing was held on January 10, 2023, at Pierre, South Dakota, relating to the Appendix to Chapter 16-16 Regulations of The Board of Bar Examiners State of South Dakota 5. Acceptance of Multistate Bar Examination Results from Other States and the Court having considered the proposed amendment, oral presentation and being fully advised in the premises, now, therefore, it is

ORDERED that Appendix to Chapter 16-16 be amended to read as follows:

APPENDIX TO CHAPTER 16-16
REGULATIONS OF THE BOARD OF BAR EXAMINERS
STATE OF SOUTH DAKOTA

5. Acceptance of Multistate Bar Examination Results from Other States

In its discretion, the Board of Bar Examiners may accept an applicant's previous score on the MBE administered in a jurisdiction other than South Dakota if taken within two years prior to the next scheduled examination, and if the score on the MBE is a scaled score of 135 or above. ~~and if the applicant passed the entire bar examination in the other jurisdiction~~. The Board of Bar Examiners may accept an applicant's MPRE score

if taken within twenty-eight months prior to the next scheduled examination and if the score is a scaled score of 85 or above.

IT IS FURTHER ORDERED that the rule shall become effective immediately.

DATED at Pierre, South Dakota, this 10th day of January, 2023.

Chapter 219

SCR 23-02

SUPREME COURT RULES AND ORDERS

IN THE SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA

* * * *

IN THE MATTER OF THE AMENDMENT SDCL 15-25-2	RULE 23-02

A hearing was held on February 16, 2023, at Pierre, South Dakota, relating to the amendment to SDCL 15-25-2, and the Court having considered the proposed amendment and oral presentation relating thereto, now, therefore, it is

ORDERED that SDCL 15-25-2 is amended to read in its entirety as follows:

SDCL 15-25-2. Application to commence proceeding--Fee--~~Number of copies filed~~ Filing.

Application for permission to commence such action or proceeding and to fix the procedure to be followed therein shall be accompanied by the form of plaintiff's proposed pleading and by a filing fee. The ~~original and five copies of the~~ application, proposed complaint and supporting papers, if any, shall be filed with the clerk of the Supreme Court.

IT IS FURTHER ORDERED that this rule shall become effective April 1, 2023.

DATED at Pierre, South Dakota, this 27th day of February, 2023.

Chapter 220

SCR 23-03

SUPREME COURT RULES AND ORDERS

IN THE SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA

* * * *

IN THE MATTER OF THE AMENDMENT SDCL 15-26A-13	RULE 23-03

A hearing was held on February 16, 2023, at Pierre, South Dakota, relating to the amendment to SDCL 15-26A-13, and the Court having considered the proposed amendment and oral presentation relating thereto, now, therefore, it is

ORDERED that SDCL 15-26A-13 is amended to read in its entirety as follows:

SDCL 15-26A-13. Petition for permission to take discretionary appeal.

An appeal from an intermediate order made before trial as prescribed by subdivision 15-26A-3(6) may be sought by filing a petition for permission to appeal, together with proof of service thereof upon all other parties to the action in circuit court, with the clerk of the Supreme Court within ten days after notice of entry of such order. When a petition is forwarded to the clerk for filing by mail it shall be accompanied by an affidavit of mailing or certificate of service of mailing and shall be deemed to be filed as of the date of mailing.

The ~~original and five copies of the~~ petition shall be filed with the clerk of the Supreme Court, together with the required statutory filing fees unless exempt by law.

IT IS FURTHER ORDERED that this rule shall become effective April 1, 2023.

DATED at Pierre, South Dakota, this 27th day of February, 2023.

Chapter 221

SCR 23-04

SUPREME COURT RULES AND ORDERS

IN THE SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA

* * * *

IN THE MATTER OF THE AMENDMENT SDCL 15-26A-16	RULE 23-04

A hearing was held on February 16, 2023, at Pierre, South Dakota, relating to the amendment to SDCL 15-26A-16, and the Court having considered the proposed amendment and oral presentation relating thereto, now, therefore, it is

ORDERED that SDCL 15-26A-16 is amended to read in its entirety as follows:

SDCL 15-26A-16. Response to petition.

Within seven days after the service of the petition, any party to the action may serve and file a response thereto. The ~~original and five copies of the answer~~ response shall be filed with the clerk of the Supreme Court. When a response to a petition is forwarded to the clerk for filing by mail it shall be accompanied by an affidavit of mailing or certificate of service of mailing and shall be deemed to be filed as of the date of mailing.

The petition and any response shall be submitted without oral argument unless otherwise ordered.

IT IS FURTHER ORDERED that this rule shall become effective April 1, 2023.

DATED at Pierre, South Dakota, this 27th day of February, 2023.

Chapter 222

SCR 23-05

SUPREME COURT RULES AND ORDERS

IN THE SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA

* * * *

IN THE MATTER OF THE AMENDMENT SDCL 15-26A-73	RULE 23-05

A hearing was held on February 16, 2023, at Pierre, South Dakota, relating to the amendment to SDCL 15-26A-73, and the Court having considered the proposed amendment and oral presentation relating thereto, now, therefore, it is

ORDERED that SDCL 15-26A-73 is amended to read in its entirety as follows:

SDCL 15-26A-73. Supplemental brief with late authorities--Service on ~~opposing~~ counsel.

Whenever a party desires to present late authorities, newly enacted legislation, or other intervening matters that were not available in time to have been included in ~~his~~ the party's brief in chief, ~~he~~ the party shall serve a copy thereof upon ~~opposing counsel~~ the attorney for each party to the action separately represented and upon any party who is not represented by counsel and file ~~fifteen copies of~~ the

supplemental brief, restricted to such new matter and otherwise in conformity with this chapter, up to the time the case is called for hearing, or by leave of court thereafter. A supplemental brief shall not exceed ten pages.

IT IS FURTHER ORDERED that this rule shall become effective April 1, 2023.

DATED at Pierre, South Dakota, this 27th day of February, 2023.

Chapter 223

SCR 23-06

SUPREME COURT RULES AND ORDERS

IN THE SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA

* * * *

IN THE MATTER OF THE AMENDMENT SDCL 15-26A-79	RULE 23-06

A hearing was held on February 16, 2023, at Pierre, South Dakota, relating to the amendment to SDCL 15-26A-79, and the Court having considered the proposed amendment and oral presentation relating thereto, now, therefore, it is

ORDERED that SDCL 15-26A-79 is amended to read in its entirety as follows:

SDCL 15-26A-79. Number of copies of briefs to be served and filed.

~~**(Text of section effective as to Supreme Court cases numbered 30000 and above on September 1, 2022.)**~~

A copy of each brief shall be served on the attorney for each party to the appeal separately represented and upon any party who is not represented by counsel. A copy of each brief shall be filed with the clerk of the Supreme Court. In addition to electronic submission of each brief, an original must be submitted to the clerk. The clerk shall not accept a brief for filing unless it is accompanied by admission or proof of service.

~~**(Text of section effective as to Supreme Court cases numbered 29999 and below.)**~~

~~Two copies of each brief shall be served on the attorney for each party to the appeal separately represented and upon any party who is not represented by counsel. Fifteen copies of each brief shall be filed with the clerk of the Supreme Court. The clerk shall not accept a brief for filing unless it is accompanied by admission or proof of service.~~

IT IS FURTHER ORDERED that this rule shall become effective April 1, 2023.

DATED at Pierre, South Dakota, this 27th day of February, 2023.

Chapter 224

SCR 23-07

SUPREME COURT RULES AND ORDERS

IN THE SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA

* * * *

IN THE MATTER OF THE AMENDMENT SDCL 15-26A-87.2	RULE 23-07

A hearing was held on February 16, 2023, at Pierre, South Dakota, relating to the amendment to SDCL 15-26A-87.2, and the Court having considered the proposed amendment and oral presentation relating thereto, now, therefore, it is

ORDERED that SDCL 15-26A-87.2 is amended to read in its entirety as follows:

SDCL 15-26A-87.2. Motions--Answers to motions--Generally.

Unless otherwise specifically provided in this chapter, motions shall be served upon ~~all adverse parties~~ the attorney for each party to the action separately represented and upon any party who is not represented by counsel, and the ~~original and five copies of the~~ motion, together with proof of service thereof, shall be filed with the clerk of the Supreme Court.

~~An adverse~~ Any party may respond to a motion by filing ~~the original and five copies of~~ a response, together with proof of service thereof, with the clerk of the Supreme Court within ten days after service of the motion, or within such time as may be otherwise directed by the court.

IT IS FURTHER ORDERED that this rule shall become effective April 1, 2023.

DATED at Pierre, South Dakota, this 27th day of February, 2023.

Chapter 225

SCR 23-08

SUPREME COURT RULES AND ORDERS

IN THE SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA
* * * *

IN THE MATTER OF THE AMENDMENT SDCL 15-26A-87.3	RULE 23-08

A hearing was held on February 16, 2023, at Pierre, South Dakota, relating to the amendment to SDCL 15-26A-87.3, and the Court having considered the proposed amendment and oral presentation relating thereto, now, therefore, it is

ORDERED that SDCL 15-26A-87.3 is amended to read in its entirety as follows:

SDCL 15-26A-87.3. Motion for attorney fees--Contents, form, and filing of motion.

A motion for appellate attorney fees in actions where such fees may be allowable must comply with the following requirements:

(1) The motion must be accompanied by a verified, itemized statement of legal services rendered, said statement to be exclusive of costs allowable under § 15-30-6;

(2) The motion must be served and filed prior to submission of the action on its merits; and

(3) ~~An original and fifteen copies of the~~ The motion and itemized statement, together with proof of service thereof, must be submitted for filing.

Consideration of a motion for attorney fees will be held in abeyance until such time as the action is considered on its merits.

IT IS FURTHER ORDERED that this rule shall become effective April 1, 2023.

DATED at Pierre, South Dakota, this 27th day of February, 2023.

Chapter 226

SCR 23-09

SUPREME COURT RULES AND ORDERS

IN THE SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA

* * * *

IN THE MATTER OF THE AMENDMENT SDCL 15-26A-91	RULE 23-09

A hearing was held on February 16, 2023, at Pierre, South Dakota, relating to the amendment to SDCL 15-26A-91, and the Court having considered the proposed amendment and oral presentation relating thereto, now, therefore, it is

ORDERED that SDCL 15-26A-91 be and it is hereby amended to read in its entirety as follows:

SDCL 15-26A-91. Time for petition for reinstatement--Contents, form, and filing of petition.

A petition for reinstatement of an appeal dismissed by the Supreme Court may be served and filed within twenty days after entry of the order of dismissal. The petition shall state briefly the ground upon which the reinstatement is sought and any underlying circumstances relevant to the dismissal. Copies of relevant affidavits, documents, and correspondence may be attached to the petition. ~~An original and five copies thereof~~ The petition shall be filed with the clerk of the Supreme Court. ~~The adverse~~ Any party may serve and file answer thereto within ten days after service of the petition.

IT IS FURTHER ORDERED that this rule shall become effective April 1, 2023.

DATED at Pierre, South Dakota, this 27th day of February, 2023.

Chapter 227

SCR 23-10

SUPREME COURT RULES AND ORDERS

IN THE SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA

* * * *

IN THE MATTER OF THE AMENDMENT SDCL 15-26C-1	RULE 23-10

A hearing was held on February 16, 2023, at Pierre, South Dakota, relating to the amendment to SDCL 15-26C-1, and the Court having considered the proposed amendment and oral presentation relating thereto, now, therefore, it is

ORDERED that SDCL 15-26C-1 is amended to read in its entirety as follows:

SDCL 15-26C-1. Electronic Filing.

~~(Text of section effective as to Supreme Court cases numbered 30000 and above on September 1, 2022.)~~

(1) ~~Effective upon further order of the Supreme Court entered after July 1, 2019, and except~~ Except as specifically exempted by these rules or court order, attorneys shall electronically file all documents, including petitions, notices of review, motions and briefs, and any appendices with the Supreme Court through the Odyssey® electronic filing system unless advance permission is granted by the court allowing paper filing or filing through any other method. Self-represented litigants may file electronically but shall not be required to file electronically.

(2) Registered users will receive electronic notice when documents are entered into the system. Registration for electronic filing constitutes written consent to electronic service of all documents filed in accordance with these rules.

(3) A document filed electronically has the same legal effect as an original paper document.

(4) The typed attorney or party name or electronic signature on a document filed electronically has the same effect as an original manually affixed signature.

(5) A party electronically filing a document that is not accessible to the public, in whole or in part, is responsible for redaction or designating the document as confidential or sealed before transmitting it to the Supreme Court. For any document containing information where redaction is required, in whole or in part, pursuant to chapter 15-15A or order of the Supreme Court or circuit court, the original unredacted document shall also be filed electronically. It is the responsibility of the parties to seek advance approval from the Supreme Court for submitting a document as sealed or confidential if that document is not already declared confidential or sealed by existing law, court rules or order.

~~**(Text of section effective as to Supreme Court cases numbered 29999 and below.)**~~

~~(1) Effective January 1, 2014, except as specifically exempted by these rules or court order, attorneys shall electronically file briefs and any appendices with the Supreme Court unless advance permission is granted by the court allowing paper filing. Any other notices, petitions, pleadings, motions, or documents may be filed electronically at the discretion of the attorney. Electronic filing for self-represented litigants is discretionary for all filings with the Supreme Court. On a showing of good cause, an attorney required to file electronically may be granted leave of court to file paper documents with the Supreme Court.~~

~~(2) Documents filed electronically must be submitted by email attachment to SCClerkBriefs@ujs.state.sd.us. The number of the case shall appear in the subject line of the email.~~

~~(3) A document filed electronically has the same legal effect as an original paper document.~~

~~(4) The typed attorney or party name or electronic signature on a document filed electronically has the same effect as an original manually affixed signature.~~

~~(5) A party electronically filing a document that is not accessible to the public, in whole or in part, is responsible for redaction or designating the document as confidential or sealed before transmitting it to the court. For any document containing information where redaction is required, in whole or in part, pursuant to chapter 15-15A or order of the court, the original unredacted document shall also be filed electronically.~~

IT IS FURTHER ORDERED that this rule shall become effective April 1, 2023.

DATED at Pierre, South Dakota, this 27th day of February, 2023.

Chapter 228

SCR 23-11

SUPREME COURT RULES AND ORDERS

IN THE SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA

* * * *

IN THE MATTER OF THE AMENDMENT SDCL 15-26C-2	RULE 23-11

A hearing was held on February 16, 2023, at Pierre, South Dakota, relating to the amendment to SDCL 15-26C-2, and the Court having considered the proposed amendment and oral presentation relating thereto, now, therefore, it is

ORDERED that SDCL 15-26C-2 is amended to read in its entirety as follows:

SDCL 15-26C-2. Electronic document formats.

~~**(Text of section effective as to Supreme Court cases numbered 30000 and above on September 1, 2022.)**~~

(1) All documents submitted to the Supreme Court in electronic form must be in portable document format (.pdf) except as follows:

(a) Parties must obtain permission from the Supreme Court Clerk in advance if they seek to submit documents in another format.

(b) Briefs shall comply with chapter 15-26A and shall consist of a single document submitted in pdf and an approved word processing format.

(c) When an appendix is filed, it shall be in .pdf format and shall be included as part of the brief document. Except for limited excerpts showing a court's reasoning, circuit court transcripts that have been filed electronically with the Supreme Court shall not be included in an appendix. A table of contents with page or paragraph reference as appropriate for each document must precede the appendix. Points of particular interest with page or paragraph reference may also be added to the table of contents. When feasible, electronic bookmarks shall be added to note the first page of each document in the appendix and may be added to note the location of points of particular interest.

~~**(Text of section effective as to Supreme Court cases numbered 29999 and below.)**~~

~~(1) All documents submitted to the court in electronic form must be in approved word processing format which shall then be converted by the supreme court clerk to portable document format (.pdf).~~

~~(a) Parties must obtain permission from the supreme court clerk in advance if they seek to submit documents in another format.~~

~~(b) Briefs shall comply with § 15-26A-60.~~

(c) ~~An appendix may be filed electronically in portable document format (.pdf). Except for limited excerpts showing a court's reasoning, circuit court transcripts that have been filed electronically with the Supreme Court shall not be included in an appendix. A table of contents with page or paragraph reference as appropriate for each document must precede the appendix. Points of particular interest with page or paragraph reference may also be added to the table of contents. When feasible, electronic bookmarks shall be added to note the first page of each document in the appendix and may be added to note the location of points of particular interest.~~

IT IS FURTHER ORDERED that this rule shall become effective April 1, 2023.

DATED at Pierre, South Dakota, this 27th day of February, 2023.

Chapter 229

SCR 23-12

SUPREME COURT RULES AND ORDERS

IN THE SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA

* * * *

IN THE MATTER OF THE AMENDMENT SDCL 15-26C-3	RULE 23-12

A hearing was held on February 16, 2023, at Pierre, South Dakota, relating to the amendment to SDCL 15-26C-3, and the Court having considered the proposed amendment and oral presentation relating thereto, now, therefore, it is

ORDERED that SDCL 15-26C-3 is amended to read in its entirety as follows:

SDCL 15-26C-3. Time of filing.

~~(Text of section effective as to Supreme Court cases numbered 30000 and above on September 1, 2022.)~~

(1) A document in compliance with the Rules of Appellate Procedure and this rule and submitted electronically to the supreme court clerk by 11:59 p.m. central standard time or daylight savings time as applicable shall be considered filed on that date.

(2) After reviewing an electronically filed document, the supreme court clerk must inform the filer, through an e-mail generated by the Odyssey® system, whether the document has been accepted or rejected. A document may be rejected (a) if it is filed in the wrong court; (b) applicable filing fees are not paid or waived; (c) the document is incomplete or contains missing information; (d) or fails to comply with

applicable statutory requirements or these rules.

(3) Parties filing briefs electronically must also submit an original to the supreme court clerk. For any brief filed in an appeal from a judgment or order pursuant to chapter 26-8A, the appellant shall also file a redacted brief in compliance with subdivision 15-26A-60(9).

(4) The Supreme Court may also order any party to provide additional hardcopies of any documents electronically filed.

~~**(Text of section effective as to Supreme Court cases numbered 29999 and below.)**~~

~~(1) A document in compliance with the Rules of Appellate Procedure and this rule and submitted electronically to the supreme court clerk by 11:59 p.m. central standard time or daylight savings time as applicable shall be considered filed on that date.~~

~~(2) Upon receiving an electronic document, the supreme court clerk will issue an e-mail confirmation that the document has been received.~~

~~(3) Parties filing electronically must also submit an original and two hardcopies of any document to the supreme court clerk. For any brief filed in an appeal from a judgment or order pursuant to chapter 26-8A, the appellant shall also file two hardcopy redacted briefs in compliance with subdivision 15-26A-60(9).~~

~~(4) The Supreme Court may also order any party to provide additional hardcopies of any documents electronically filed.~~

~~(5) A party must pay all required fees and payments within five days of submitting a document filed electronically. If fees and payments are not received within five days of submission, the document will not be filed and will be returned by the supreme court clerk and the party will be required to re-file the document.~~

IT IS FURTHER ORDERED that this rule shall become effective April 1, 2023.

DATED at Pierre, South Dakota, this 27th day of April, 2023.

Chapter 230

SCR 23-13

SUPREME COURT RULES AND ORDERS

IN THE SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA

* * * *

IN THE MATTER OF THE AMENDMENT SDCL 15-26C-4	RULE 23-13

A hearing was held on February 16, 2023, at Pierre, South Dakota, relating to the amendment to SDCL 15-26C-4, and the Court having considered the proposed

amendment and oral presentation relating thereto, now, therefore, it is

ORDERED that SDCL 15-26C-4 is amended to read in its entirety as follows:

SDCL 15-26C-4. Electronic Service.

~~(Text of section effective as to Supreme Court cases numbered 30000 and above on September 1, 2022.)~~

(1) All documents filed electronically must be served electronically through the Odyssey® system except for documents served on or by self-represented litigants. On a showing of good cause, an attorney may be granted leave by the Supreme Court to serve paper documents or to be exempt from receiving electronic service.

(2) Electronic service is not effective if the party making service learns that the attempted service did not reach the person to be served.

~~(Text of section effective as to Supreme Court cases numbered 29999 and below.)~~

~~(1) After January 1, 2014, any attorney not exempt from electronic filing or a party filing electronically must designate an email address for accepting electronic service and for receiving electronic service with the supreme court clerk. On a showing of good cause, an attorney may be granted leave of court to serve paper documents or to be exempt from receiving electronic service.~~

~~(2) If a party files a document by electronic means, the party must serve the document by electronic means unless the recipient of service has not designated an email address for receiving electronic service.~~

~~(3) Electronic service is not effective if the party making service learns that the attempted service did not reach the person to be served.~~

~~(4) If a recipient cannot accept electronic service of a document, service under another means specified by § 15-6-5(b) is required.~~

~~(5) Any party effectuating service electronically must include a certificate of service specifying the items electronically served.~~

~~(6) Documents served electronically may be in portable document format (.pdf), with the exception of those documents to be filed with the Supreme Court in approved word processing format as previously specified herein.~~

~~(7) The Supreme Court may electronically file and serve on registered attorneys and parties any decisions, orders, notices, remittiturs or other documents prepared by the court in such cases provided the attorney or party to be served has designated an email address for receiving electronic service.~~

IT IS FURTHER ORDERED that this rule shall become effective April 1, 2023.

DATED at Pierre, South Dakota, this 27th day of February, 2023.

_____

Chapter 231

SCR 23-14

SUPREME COURT RULES AND ORDERS

IN THE SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA

* * * *

IN THE MATTER OF THE AMENDMENT SDCL 15-30-4	RULE 23-14

A hearing was held on February 16, 2023, at Pierre, South Dakota, relating to the amendment to SDCL 15-30-4, and the Court having considered the proposed amendment and oral presentation relating thereto, now, therefore, it is

ORDERED that SDCL 15-30-4 is amended to read in its entirety as follows:

SDCL 15-30-4. Time for petition for rehearing--Contents, form, and filing of petition.

A petition for the rehearing of a cause heard on appeal to the Supreme Court may be served and filed within twenty days after the date of filing of the formal opinion or the order of summary disposition. ~~The adverse~~ Any party may serve and file answer thereto within ten days after service of the petition. The petition shall state briefly the ground upon which a rehearing is asked and the points supposed to have been overlooked or misapprehended by the court, with proper reference to the particular portion of the printed record and to the authorities relied upon. The petition and answer may be typewritten. ~~An original and five copies thereof shall be filed.~~

IT IS FURTHER ORDERED that this rule shall become effective April 1, 2023.

DATED at Pierre, South Dakota, this 27th day of February, 2023.

Chapter 232

SCR 23-15

SUPREME COURT RULES AND ORDERS

IN THE SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA

* * * *

IN THE MATTER OF THE AMENDMENT SDCL 15-30-9	RULE 23-15

A hearing was held on February 16, 2023, at Pierre, South Dakota, relating to

the amendment to SDCL 15-30-9, and the Court having considered the proposed amendment and oral presentation relating thereto, now, therefore, it is

ORDERED that SDCL 15-30-9 is amended to read in its entirety as follows:

SDCL 15-30-9. Objections to taxation of costs on appeal--Reply to objections--Decision by court.

At any time within ten days after the mailing of such notice of taxation of costs, any party aggrieved may object to the same by serving written objections upon the other parties to the appeal and filing ~~five copies of~~ such objections with proof of service thereof with the clerk of the Supreme Court. If any relevant question of fact is raised, the party objecting shall serve and file with ~~his~~ the objections, proof in the form of an affidavit or affidavits of the facts as claimed by ~~him, and five additional copies of such affidavits must be filed with the clerk~~ the party. The objections may be supported by such written argument or authority as the party desires to submit in support of the same. Within five days after the service of such objections, any party to the appeal may reply thereto by serving the same with answering affidavits if any on the ~~adverse~~ other parties and filing ~~five clear copies~~ the reply with the clerk of the court. Such reply may contain such argument and authority as the party may desire to submit. Upon receipt of such objections and replies, if any, and after the time for serving and filing the same has expired, the court shall consider and decide upon the same and make such order thereon as to it may seem warranted and such order shall be final and not subject to rehearing or appeal excepting that the court will at all times reserve the right to correct any actual mistake or error existing therein.

IT IS FURTHER ORDERED that this rule shall become effective April 1, 2023.

DATED at Pierre, South Dakota, this 27th day of February, 2023.

_____

TOPICAL INDEX

	Ch.	Page
Abortion		
Provide That A Female Who Undergoes An Unlawful Abortion May Not Be Held Criminally Liable	69	154
Absentee Voting		
Modify Certain Provisions Pertaining To Absentee Voting	51	124
Adoption		
Revise Certain Provisions Related To The Sealing Of Adoption Records	83	202
Agency		
Require Certain Entities Owning Agricultural Land To Report Foreign Beneficial Ownership Interests	169	442
Modify Power Of Attorney Requirements For Certain Vehicle Transfer Authorizations	170	443
Agricultural Land		
Require Certain Entities Owning Agricultural Land To Report Foreign Beneficial Ownership Interests	169	442
Agriculture and Horticulture		
Modify The Use Of Conservation District Special Revenue Fund Monies And To Provide An Appropriation Therefor	143	377
Revise The Fees For Registration Of An Apiary	144	378
Modify Expiration Dates And Enforcement Actions Pertaining To Pesticide Applicator Licenses	145	378
Expand The Definition Of A Pesticide Dealer	146	383
Make An Appropriation To The State Conservation Commission And To Declare An Emergency	194	464
Make An Appropriation For Costs Related To The Black Hills National Forest Land And Resource Management Plan Revision Process And To Declare An Emergency	201	469
Alcoholic Beverages		
Revise Certain Provisions Regarding On-Sale Alcoholic Beverage Licenses For Use At Municipality-Owned Facilities.	132	320
Animals and Livestock		
Add Provisions Regarding Construction And Maintenance Of Livestock Pipelines On Highways	96	225
Require That Certain Operations Obtain Their Own General Or Individual Water Pollution Permits	131	319
Appropriation		
Modify Tax Refunds For Elderly Persons And Persons With A Disability, To Make An Appropriation Therefor, And To Declare An Emergency	31	95
Establish A Program For Housing Infrastructure Loans And Grants, Make An Appropriation Therefor, And To Declare An Emergency	41	108
Make Appropriations For Water And Environmental Purposes And To Declare An Emergency	149	387
Make An Appropriation For Costs Related To Suppression Of Wildfires In The State And To Declare An Emergency	173	450
Make An Appropriation For Costs Related To Disasters In The State And To Declare An Emergency	174	450
Authorize The Construction Of A National Guard Vehicle Maintenance Shop In Watertown, To Make An Appropriation Therefor, And To Declare An Emergency	176	452
Authorize The Construction Of An Addition To The BG Dean Mann Readiness Center In Sioux Falls, To Make An Appropriation Therefor, And To Declare An Emergency	177	453

Revise The Legal Description For The Construction Of A National Guard Readiness Center In Sioux Falls, Make An Additional Appropriation Therefor, And To Declare An Emergency 178 454
Provide An Increased Appropriation For The Construction Costs Of An Athletics Events Center At Dakota State University And To Declare An Emergency 181 456
Make An Appropriation To Reimburse Health Care Professionals Who Have Complied With The Requirements For Health Care Recruitment Assistance Programs And To Declare An Emergency 182 457
Make An Appropriation For The Payment Of Extraordinary Litigation Expenses And To Declare An Emergency 183 458
Increase The Funding For Construction Of An Addition To The Kinsman Building In Pierre, To Make An Appropriation Therefor, And To Declare An Emergency 185 459
Make An Appropriation For The Demolition And Reconstruction Of Agricultural Use Structures At South Dakota State University, And To Declare An Emergency. 186 459
Make An Appropriation For Improving The Buildings And Grounds Of The Capitol Complex And Declare An Emergency 187 460
Make An Appropriation For The Revised Construction Costs Of The Bioproducts Facility In Brookings And To Declare An Emergency 189 461
Amend An Appropriation For The Revised Construction Costs Of The Mineral Industries Building At The School Of Mines And Technology And To Declare An Emergency 190 462
Revise The Appropriation For A Livestock And Equestrian Complex At The State Fair And To Declare An Emergency 191 462
Authorize The South Dakota Department Of Corrections To Construct A Prison Facility For Offenders Committed To The Department Of Corrections In Rapid City, To Make An Appropriation Therefor, And To Declare An Emergency 192 463
Make An Appropriation To The Department Of Revenue For The Modernization Of The Motor Vehicle Administration System And To Declare An Emergency 193 464
Make An Appropriation To The State Conservation Commission And To Declare An Emergency 194 464
Authorize The Department Of Corrections To Purchase Certain Real Property, To Contract For The Design Of A Prison Facility For Offenders Committed To The Department Of Corrections, To Make An Appropriation Therefor, To Transfer Funds To The Incarceration Construction Fund, And To Declare An Emergency 195 465
Make An Appropriation For The Construction Of A Maintenance Shop For The Wildland Fire Suppression Division In Rapid City And To Declare An Emergency 196 466
Make An Appropriation For The Construction Of A Maintenance Shop For The Wildland Fire Suppression Division In Hot Springs And To Declare An Emergency 197 467
Make An Appropriation To The Department Of Human Services For The Development And Expansion Of Adult Day Services Programs And To Declare An Emergency 198 467
Make An Appropriation To The Department Of Health To Provide Grants To Support Mental Health And Suicide Prevention Programs And To Declare An Emergency 199 468
Make An Appropriation For The Modernization Of The State's Enterprise Resource Planning Systems And To Declare An Emergency 200 469

Make An Appropriation For Costs Related To The Black Hills National Forest Land And Resource Management Plan Revision Process And To Declare An Emergency 201 469
Make An Appropriation For Design Costs Related To The Health Services Center At Black Hills State University Rapid City And To Declare An Emergency 202 470
Make An Appropriation To The Office Of The Secretary Of State For Voter Roll Maintenance Ballot Machines And Election Security..... 203 471
Make An Appropriation For Design Costs Related To The New Lincoln Hall At Northern State University And To Declare An Emergency 204 471
Make An Appropriation To Expand Laboratory Space At The Sanford Underground Research Facility And To Declare An Emergency 205 472
Make An Appropriation To Support Volunteer Fire Departments And To Declare An Emergency 206 472
Make An Appropriation To Rehabilitate The Rail Line From The City Of Milbank To The City Of Sisseton And To Declare An Emergency 207 473
Make An Appropriation To The Department Of Education For Grants To Support Career And Technical Education Programs And To Declare An Emergency 208 474
Make An Appropriation For Increased Costs Related To The Construction Of The New State Public Health Laboratory And To Declare An Emergency 209 475
Revise The General Appropriations Act For Fiscal Year 2023 ..... 210 475

Ballot Measures

Proposing And Submitting To The Electors At The Next General Election An Amendment To The Constitution Of The State Of South Dakota Updating References To Certain Officeholders And Persons 2 14
Enhance The Penalty For Petition Circulation Perjury 9 38
Revise Requirements To Relocate A County Seat 21 76
Require The Secretary Of State To Determine If A Legislatively Proposed Constitutional Amendment Complies With The Single Subject Requirement And Is Not A Constitutional Revision..... 48 119

Banks and Banking

Revise Certain Provisions Regarding Money Transmission 159 399

Boards and Commissions

Revise Provisions Related To The South Dakota Science And Technology Authority 4 29
Modify The Limit Of Consecutive Terms For Members Of The Board Of Technical Education 59 136
Repeal And Make Technical Changes To Provisions Regarding The Board Of Military Affairs..... 108 242
Clarify And Modernize Cremation Requirements And Procedures 129 302
Establish A Community Paramedic Endorsement..... 135 324
Create The South Dakota Board Of Physical Therapy And Make An Appropriation Therefor..... 136 325
Update Provisions Related To The Licensure Of Funeral Directors And The Provision Of Funeral Services 137 334
Reinstate The Restricted Real Estate Broker's License For Auctioneers And Revise Real Estate Licensing 138 343
Authorize The State's Participation In The Interstate Compact On Occupational Therapy Licensure..... 139 347
Revise Provisions Relating To Addiction And Prevention Services Professionals..... 140 365

Update Provisions Related To The Licensure Of Speech Language Pathologists And Speech Language Pathology Assistants. 141 369
Authorize Participation In Contracts By Certain Board Members And Employees Of Water Districts 152 391
Authorize Compensation For Water Project District Directors 153 392
Repeal The Sunset Date For Provisions Related To The Licensure Of Behavior Analysts 172 449
Authorize The Awarding Of Deobligated Grants In Accordance With Policies Of The Board Of Water And Natural Resources 184 458
Make An Appropriation To The State Conservation Commission And To Declare An Emergency 194 464

Campaign Finance
Provide A Penalty For The Expenditure Of Public Funds To Influence The Outcome Of An Election 54 131

Cemeteries
Provide A Stipend For The Erection Of A Private Headstone For A Deceased Veteran 113 259
Increase The Maximum Amount Of Dollars Payable By The State To Erect The Headstone Of A Deceased Veteran 114 260

Child Abuse
Revise Provisions Related To Courtroom Modifications For Child Witnesses 85 204

Child Support
Revise Provisions Related To Parental Support For Expenses Related To Pregnancy And Childbirth 84 203

Civil Commitment
Clarify Emergency Commitments Of Severely Mentally Ill Persons By Appropriate Regional Facilities 90 212

Civil Forfeiture
Repeal The Authorized Forfeiture Of Property Used In The Illegal Capture Of Fish 148 386

Civil Procedure
Revise Provisions Related To Courtroom Modifications For Child Witnesses 85 204

Code Commission
Update The Official Code Of Laws 12 41
Modify Protections For Agricultural Operations From Nuisance Claims 65 149

Compacts
Authorize The State's Participation In The Interstate Compact On Occupational Therapy Licensure 139 347

Constitutional Amendments
Proposing And Submitting To The Electors At The Next General Election An Amendment To The Constitution Of The State Of South Dakota Updating References To Certain Officeholders And Persons 2 14
Require The Secretary Of State To Determine If A Legislatively Proposed Constitutional Amendment Complies With The Single Subject Requirement And Is Not A Constitutional Revision 48 119

Contracts
Prohibit Certain Restrictions In Employment Contracts 160 407

Controlled Substances
Provide An Exception To The Definition Of Drug Paraphernalia 73 157
Authorize Employers To Acquire And Make Available Opioid Antagonists 118 266
Place Certain Substances On The Controlled Substances Schedule And To Declare An Emergency 119 266

Corrections
Exempt Records Regarding Jail Inmate Disciplinary Matters From Public Inspection And Copying 6 32

Revise Certain Provisions Regarding The Reimbursement Of County Expenses In Detaining Parole Violators 81 171
Update Certain Provisions Regarding The Department Of Corrections And The Authority Of The Secretary Of Corrections 82 172
Modify A Court's Authority To Commit A Habitual Juvenile Offender To The Department Of Corrections 86 205
Require The Unified Judicial System To Assemble A Task Force To Address Barriers To Services For Emerging Adults Involved In The Justice System In South Dakota..... 175 451
Authorize The South Dakota Department Of Corrections To Construct A Prison Facility For Offenders Committed To The Department Of Corrections In Rapid City, To Make An Appropriation Therefor, And To Declare An Emergency 192 463
Authorize The Department Of Corrections To Purchase Certain Real Property, To Contract For The Design Of A Prison Facility For Offenders Committed To The Department Of Corrections, To Make An Appropriation Therefor, To Transfer Funds To The Incarceration Construction Fund, And To Declare An Emergency 195 465

Counties

Prohibit The Enactment Or Implementation Of An Ordinance, Resolution, Or Policy That Prohibits The Use Of An Energy Utility Service 20 76
Revise Requirements To Relocate A County Seat 21 76
Allow For The Appointment Of County Coroner By All Counties 22 77
Provide For The Organization Of Townships Or Fractions Of Townships .. 23 77
Revise Certain Provisions Regarding The County Zoning And Appeals Process 39 107
Establish Post-Election Audits. 50 122
Clarify The Convening Of Recount Boards For Primary Elections..... 53 130
Revise Certain Provisions Regarding The Reimbursement Of County Expenses In Detaining Parole Violators 81 171
Revise Provisions Pertaining To Township Eligibility For The Rural Access Infrastructure Fund..... 97 226
Increase The Basic Salary Schedule For County Veterans Service Officers..... 112 259

Courts and Judiciary

Increase The Daily Maximum Award For The Alternative Care Program Administered By The Unified Judicial System.. 64 149
Repeal Provisions Related To The Jail Mental Health Screening Pilot Program And Oversight Council 79 162
Require The Unified Judicial System To Assemble A Task Force To Address Barriers To Services For Emerging Adults Involved In The Justice System In South Dakota..... 175 451
Require The Unified Judicial System To Assemble A Task Force To Address The Provision Of Legal Services To Indigent Parties Within The South Dakota Court System And To Declare An Emergency..... 179 455
Create A Pilot Program In The Unified Judicial System For Risk And Lethality Assessments For Certain Persons Accused Of Assault Or Protection Order Violations..... 188 461

Crimes

Enhance The Penalty For Petition Circulation Perjury 9 38
Clarify Registration And Residence Requirements For Voting At A Township Meeting 24 78
Provide A Penalty For The Expenditure Of Public Funds To Influence The Outcome Of An Election 54 131
Enhance The Penalty For Attempted First Degree Murder Of A Law Enforcement Officer 67 153
Revise The Crime Of Witness Tampering 68 153

Provide That A Female Who Undergoes An Unlawful Abortion May Not Be Held Criminally Liable 69 154
Revise Certain Provisions Regarding The Crime Of Rape And Provide A Penalty Therefor 70 154
Provide Certain Definitions Related To The Crime Of Rape 71 155
Modify Certain Requirements For Removal From The Sex Offender Registry 72 156
Provide An Exception To The Definition Of Drug Paraphernalia 73 157
Revise Certain Provisions Regarding Consideration Of Out-Of-State Convictions For Driving Under The Influence. 106 239
Modify Acceptable Conduct For Practitioners Related To Medical Cannabis 123 295

Criminal Procedure

Revise Provisions Related To The Discharge Of A Defendant Restored To Competency 78 161
Repeal Provisions Related To The Jail Mental Health Screening Pilot Program And Oversight Council 79 162
Revise Provisions Related To Courtroom Modifications For Child Witnesses 85 204
Create A Pilot Program In The Unified Judicial System For Risk And Lethality Assessments For Certain Persons Accused Of Assault Or Protection Order Violations 188 461

Delayed Effective Date

Revise Certain Provisions Regarding On-Sale Alcoholic Beverage Licenses For Use At Municipality-Owned Facilities. 132 320

Developmentally Disabled Persons

Modify Discharge Notice Procedures Applicable To Developmentally Disabled Persons 91 212
Provide For Appropriate Civil Commitment Of Certain Persons 92 213

Domestic Relations

Revise Certain Provisions Related To The Sealing Of Adoption Records .. 83 202
Revise Provisions Related To Parental Support For Expenses Related To Pregnancy And Childbirth 84 203
Create A Pilot Program In The Unified Judicial System For Risk And Lethality Assessments For Certain Persons Accused Of Assault Or Protection Order Violations 188 461

Driver License

Revise Driver's License Suspensions For Restricted Permit Holders Over The Age Of Sixteen 101 235
Accept Uniformed Services ID As Proof Of Veteran Status To Have Veteran Designation Added To A State License Or ID Card 102 236
Increase Civil Penalties For Commercial Driver's License Holders And Motor Carriers 103 237

Economic Development

Increase An Amount Of Property Value Owned By A Local Industrial Development Corporation That Is Exempt From Taxation 27 80
Add Dental Practices As Eligible Facilities To Participate In The Rural Health Care Recruitment Assistance Program 116 261

Education

Establish And Modify Provisions Related To Initiated Petitions 8 36
Revise Property Tax Levies For School Districts And To Revise The State Aid To General And Special Education Formulas 30 88
Authorize School Boards To Modify The Length Of Terms For Members To Allow For Holding Joint Elections 55 132
Clarify The Duties Of Truancy Officers 56 135
Establish A Uniform Method For Calculating High School Credit Received From Completing Postsecondary Courses 57 135

Modify The Limit Of Consecutive Terms For Members Of The Board Of Technical Education 59 136
Increase The Dollar Amount Of South Dakota Opportunity Scholarships. 61 138
Revise Provisions Pertaining To The South Dakota School For The Deaf . 62 139
Update A Reference To The Internal Revenue Code For Purposes Of Higher Education Savings Plans 63 147
Make An Appropriation To The Department Of Education For Grants To Support Career And Technical Education Programs And To Declare An Emergency 208 474

Election Verification

Revise Certain Provisions Relating To Voter Registration 44 113
Modify Provisions Pertaining To The Testing Of Automatic Tabulating Equipment..... 49 120
Establish Post-Election Audits. 50 122
Clarify The Convening Of Recount Boards For Primary Elections 53 130

Elections

Revise Residency Requirements For The Purposes Of Voter Registration 42 111
Prohibit Ranked-Choice Voting. 43 112
Revise Certain Provisions Relating To Voter Registration 44 113
Require Candidates For Party Precinct Committeeman Or Committeewoman To Include An Email Address And Phone Number In The Written Statement Submitted To The County Auditor 45 117
Modify Provisions For A Statewide Runoff Election..... 46 118
Require The Continued Maintenance Of The Official List Of Candidates Prior To An Election..... 47 119
Require The Secretary Of State To Determine If A Legislatively Proposed Constitutional Amendment Complies With The Single Subject Requirement And Is Not A Constitutional Revision 48 119
Modify Provisions Pertaining To The Testing Of Automatic Tabulating Equipment..... 49 120
Establish Post-Election Audits. 50 122
Modify Certain Provisions Pertaining To Absentee Voting..... 51 124
Revise The Qualifications To Be A Member Of A County Recount Board .. 52 130
Clarify The Convening Of Recount Boards For Primary Elections 53 130
Provide A Penalty For The Expenditure Of Public Funds To Influence The Outcome Of An Election 54 131
Authorize School Boards To Modify The Length Of Terms For Members To Allow For Holding Joint Elections 55 132
Make An Appropriation To The Office Of The Secretary Of State For Voter Roll Maintenance Ballot Machines And Election Security..... 203 471

Emergency Clause

Repeal Provisions Requiring Prison Or Jail Cost Estimates And To Declare An Emergency 11 40
Modify Tax Refunds For Elderly Persons And Persons With A Disability, To Make An Appropriation Therefor, And To Declare An Emergency 31 95
Establish A Program For Housing Infrastructure Loans And Grants, Make An Appropriation Therefor, And To Declare An Emergency 41 108
Place Certain Substances On The Controlled Substances Schedule And To Declare An Emergency 119 266
Allow Medical Cannabis Establishments To Maintain Certain Cardholder Data And To Declare An Emergency 124 296
Make Appropriations For Water And Environmental Purposes And To Declare An Emergency 149 387
Make An Appropriation For Costs Related To Suppression Of Wildfires In The State And To Declare An Emergency 173 450
Make An Appropriation For Costs Related To Disasters In The State And To Declare An Emergency 174 450

Authorize The Construction Of A National Guard Vehicle Maintenance Shop In Watertown, To Make An Appropriation Therefor, And To Declare An Emergency 176 452
Authorize The Construction Of An Addition To The BG Dean Mann Readiness Center In Sioux Falls, To Make An Appropriation Therefor, And To Declare An Emergency 177 453
Revise The Legal Description For The Construction Of A National Guard Readiness Center In Sioux Falls, Make An Additional Appropriation Therefor, And To Declare An Emergency 178 454
Authorize The Sale Of Real Property In Lake County By The Board Of Regents And To Declare An Emergency 180 456
Provide An Increased Appropriation For The Construction Costs Of An Athletics Events Center At Dakota State University And To Declare An Emergency 181 456
Make An Appropriation To Reimburse Health Care Professionals Who Have Complied With The Requirements For Health Care Recruitment Assistance Programs And To Declare An Emergency 182 457
Make An Appropriation For The Payment Of Extraordinary Litigation Expenses And To Declare An Emergency 183 458
Increase The Funding For Construction Of An Addition To The Kinsman Building In Pierre, To Make An Appropriation Therefor, And To Declare An Emergency 185 459
Make An Appropriation For The Demolition And Reconstruction Of Agricultural Use Structures At South Dakota State University, And To Declare An Emergency. 186 459
Make An Appropriation For Improving The Buildings And Grounds Of The Capitol Complex And Declare An Emergency 187 460
Make An Appropriation For The Revised Construction Costs Of The Bioproducts Facility In Brookings And To Declare An Emergency 189 461
Amend An Appropriation For The Revised Construction Costs Of The Mineral Industries Building At The School Of Mines And Technology And To Declare An Emergency 190 462
Revise The Appropriation For A Livestock And Equestrian Complex At The State Fair And To Declare An Emergency 191 462
Authorize The South Dakota Department Of Corrections To Construct A Prison Facility For Offenders Committed To The Department Of Corrections In Rapid City, To Make An Appropriation Therefor, And To Declare An Emergency 192 463
Make An Appropriation To The Department Of Revenue For The Modernization Of The Motor Vehicle Administration System And To Declare An Emergency 193 464
Make An Appropriation To The State Conservation Commission And To Declare An Emergency 194 464
Authorize The Department Of Corrections To Purchase Certain Real Property, To Contract For The Design Of A Prison Facility For Offenders Committed To The Department Of Corrections, To Make An Appropriation Therefor, To Transfer Funds To The Incarceration Construction Fund, And To Declare An Emergency 195 465
Make An Appropriation For The Construction Of A Maintenance Shop For The Wildland Fire Suppression Division In Rapid City And To Declare An Emergency 196 466
Make An Appropriation For The Construction Of A Maintenance Shop For The Wildland Fire Suppression Division In Hot Springs And To Declare An Emergency 197 467
Make An Appropriation To The Department Of Human Services For The Development And Expansion Of Adult Day Services Programs And To Declare An Emergency 198 467

Make An Appropriation To The Department Of Health To Provide Grants To Support Mental Health And Suicide Prevention Programs And To Declare An Emergency 199 468
Make An Appropriation For The Modernization Of The State's Enterprise Resource Planning Systems And To Declare An Emergency 200 469
Make An Appropriation For Costs Related To The Black Hills National Forest Land And Resource Management Plan Revision Process And To Declare An Emergency 201 469
Make An Appropriation For Design Costs Related To The Health Services Center At Black Hills State University Rapid City And To Declare An Emergency 202 470
Make An Appropriation For Design Costs Related To The New Lincoln Hall At Northern State University And To Declare An Emergency 204 471
Make An Appropriation To Expand Laboratory Space At The Sanford Underground Research Facility And To Declare An Emergency 205 472
Make An Appropriation To Rehabilitate The Rail Line From The City Of Milbank To The City Of Sisseton And To Declare An Emergency 207 473
Make An Appropriation For Increased Costs Related To The Construction Of The New State Public Health Laboratory And To Declare An Emergency 209 475

Emergency Medical Services

Add Emergency Medical Services Personnel To Class B Public Safety Membership Of The South Dakota Retirement System 15 52

Environmental Protection

Require That Certain Operations Obtain Their Own General Or Individual Water Pollution Permits 131 319

Executive/Judiciary Request

Expand Certification Options For Interpreters For The Deaf 7 35
Enhance The Penalty For Petition Circulation Perjury 9 38
Update And Clarify Certain Provisions Relating To The South Dakota Retirement System 14 44
Add Emergency Medical Services Personnel To Class B Public Safety Membership Of The South Dakota Retirement System 15 52
Revise Provisions Relating To Actuarial Terminology Used By The South Dakota Retirement System 16 59
Revise Certain References To The Internal Revenue Code 26 79
Revise Property Tax Levies For School Districts And To Revise The State Aid To General And Special Education Formulas 30 88
Modify Tax Refunds For Elderly Persons And Persons With A Disability, To Make An Appropriation Therefor, And To Declare An Emergency 31 95
Provide For The Uniform Administration Of Tobacco Products Taxes 37 106
Revise The Criteria For Remote Sellers Who Must Remit Sales Tax 38 106
Revise Certain Provisions Regarding The County Zoning And Appeals Process 39 107
Clarify The Convening Of Recount Boards For Primary Elections 53 130
Revise Provisions Pertaining To The South Dakota School For The Deaf . 62 139
Update A Reference To The Internal Revenue Code For Purposes Of Higher Education Savings Plans 63 147
Enhance The Penalty For Attempted First Degree Murder Of A Law Enforcement Officer 67 153
Revise The Crime Of Witness Tampering 68 153
Revise Certain Provisions Regarding The Reimbursement Of County Expenses In Detaining Parole Violators 81 171

Update Certain Provisions Regarding The Department Of Corrections And The Authority Of The Secretary Of Corrections 82 172
Clarify Emergency Commitments Of Severely Mentally Ill Persons By Appropriate Regional Facilities 90 212
Modify Discharge Notice Procedures Applicable To Developmentally Disabled Persons 91 212
Provide Free Tuition At Board Of Technical Education Institutions For Children Or Spouses Of Members Of The South Dakota National Guard Disabled Or Deceased In The Line Of Duty 93 216
Revise And Repeal Obsolete Provisions Related To The Department Of Social Services..... 94 217
Create An Off-Road Vehicle Decal For Non Residents Visiting The State. 99 230
Accept Uniformed Services ID As Proof Of Veteran Status To Have Veteran Designation Added To A State License Or ID Card 102 236
Increase Civil Penalties For Commercial Driver's License Holders And Motor Carriers..... 103 237
Revise Certain Provisions Regarding The Payment Of Tuition For Members Of The South Dakota National Guard..... 110 251
Revise Certain Provisions Pertaining To The Department Of Veterans Affairs And Residency In The State Veterans Home 111 253
Increase The Basic Salary Schedule For County Veterans Service Officers 112 259
Place Certain Substances On The Controlled Substances Schedule And To Declare An Emergency 119 266
Update Provisions Related To The Licensure Of Funeral Directors And The Provision Of Funeral Services 137 334
Revise Provisions Relating To Addiction And Prevention Services Professionals..... 140 365
Update Provisions Related To The Licensure Of Speech Language Pathologists And Speech Language Pathology Assistants. 141 369
Revise The Fees For Registration Of An Apiary 144 378
Modify Expiration Dates And Enforcement Actions Pertaining To Pesticide Applicator Licenses 145 378
Repeal Certain Requirements For Game, Fish And Parks Licensing Agents 147 386
Repeal The Authorized Forfeiture Of Property Used In The Illegal Capture Of Fish..... 148 386
Make Appropriations For Water And Environmental Purposes And To Declare An Emergency 149 387
Update The Deposit Threshold For Actions Related To General Rate Cases..... 155 394
Update References To Certain Federal Motor Carrier Regulations 157 396
Update Certain Citations To Federal Regulations Regarding Pipeline Safety Inspections..... 158 397
Revise Certain Provisions Regarding Money Transmission 159 399
Streamline Examination Reports 163 425
Repeal The Annual Grievance Reporting Requirements For Health Carriers..... 165 426
Revise Employer Contribution Rates 171 444
Repeal The Sunset Date For Provisions Related To The Licensure Of Behavior Analysts 172 449
Make An Appropriation For Costs Related To Suppression Of Wildfires In The State And To Declare An Emergency..... 173 450
Make An Appropriation For Costs Related To Disasters In The State And To Declare An Emergency 174 450

Require The Unified Judicial System To Assemble A Task Force To
Address Barriers To Services For Emerging Adults Involved In
The Justice System In South Dakota..... 175 451
Authorize The Construction Of A National Guard Vehicle Maintenance Shop
In Watertown, To Make An Appropriation Therefor, And
To Declare An Emergency 176 452
Authorize The Construction Of An Addition To The BG Dean Mann
Readiness Center In Sioux Falls, To Make An Appropriation Therefor, And
To Declare An Emergency 177 453
Revise The Legal Description For The Construction Of A National Guard
Readiness Center In Sioux Falls, Make An Additional Appropriation Therefor,
And To Declare An Emergency..... 178 454
Require The Unified Judicial System To Assemble A Task Force To
Address The Provision Of Legal Services To Indigent Parties Within
The South Dakota Court System And To Declare An Emergency..... 179 455
Authorize The Sale Of Real Property In Lake County By The
Board Of Regents And To Declare An Emergency..... 180 456
Make An Appropriation To Reimburse Health Care Professionals Who
Have Complied With The Requirements For Health Care Recruitment
Assistance Programs And To Declare An Emergency..... 182 457
Make An Appropriation For The Payment Of Extraordinary Litigation Expenses
And To Declare An Emergency..... 183 458
Authorize The Awarding Of Deobligated Grants In Accordance With
Policies Of The Board Of Water And Natural Resources..... 184 458
Increase The Funding For Construction Of An Addition To
The Kinsman Building In Pierre, To Make An Appropriation Therefor, And
To Declare An Emergency 185 459
Make An Appropriation For The Demolition And Reconstruction Of
Agricultural Use Structures At South Dakota State University, And
To Declare An Emergency. 186 459
Make An Appropriation For The Revised Construction Costs Of
The Bioproducts Facility In Brookings And To Declare An Emergency 189 461
Amend An Appropriation For The Revised Construction Costs Of
The Mineral Industries Building At The School Of Mines And Technology
And To Declare An Emergency..... 190 462
Revise The Appropriation For A Livestock And Equestrian Complex
At The State Fair And To Declare An Emergency..... 191 462
Authorize The South Dakota Department Of Corrections To Construct
A Prison Facility For Offenders Committed To The Department Of Corrections
In Rapid City, To Make An Appropriation Therefor, And
To Declare An Emergency 192 463
Make An Appropriation To The Department Of Revenue For The Modernization
Of The Motor Vehicle Administration System And
To Declare An Emergency 193 464
Make An Appropriation To The State Conservation Commission And
To Declare An Emergency 194 464
Authorize The Department Of Corrections To Purchase Certain Real Property,
To Contract For The Design Of A Prison Facility For Offenders Committed To
The Department Of Corrections, To Make An Appropriation Therefor, To
Transfer Funds To The Incarceration Construction Fund, And
To Declare An Emergency 195 465
Make An Appropriation For The Construction Of A Maintenance Shop For
The Wildland Fire Suppression Division In Rapid City And
To Declare An Emergency 196 466
Make An Appropriation For The Construction Of A Maintenance Shop For
The Wildland Fire Suppression Division In Hot Springs And
To Declare An Emergency 197 467

Make An Appropriation For The Modernization Of The State's Enterprise Resource Planning Systems And To Declare An Emergency 200 469
Make An Appropriation For Costs Related To The Black Hills National Forest Land And Resource Management Plan Revision Process And To Declare An Emergency 201 469
Make An Appropriation To Rehabilitate The Rail Line From The City Of Milbank To The City Of Sisseton And To Declare An Emergency 207 473
Make An Appropriation For Increased Costs Related To The Construction Of The New State Public Health Laboratory And To Declare An Emergency 209 475
Revise The General Appropriations Act For Fiscal Year 2023 ..... 210 475

Fees

Update Additional Charges Allowed For Mailing Decals And Plates And To Declare An Emergency 98 227
Create An Off-Road Vehicle Decal For Non Residents Visiting The State. 99 230
Clarify And Modernize Cremation Requirements And Procedures 129 302
Authorize The Provision Of Medical Records And The Imposition Of Related Fees 134 322
Establish A Community Paramedic Endorsement..... 135 324
Create The South Dakota Board Of Physical Therapy And Make An Appropriation Therefor..... 136 325
Update Provisions Related To The Licensure Of Funeral Directors And The Provision Of Funeral Services 137 334
Authorize The State's Participation In The Interstate Compact On Occupational Therapy Licensure 139 347
Revise Provisions Relating To Addiction And Prevention Services Professionals 140 365
Revise The Fees For Registration Of An Apiary 144 378
Update The Deposit Threshold For Actions Related To General Rate Cases..... 155 394

Fiduciaries and Trusts

Amend Provisions Regarding Trusts..... 161 410

Firearms

Identify The Means Of Conducting A Criminal Background Check For The Renewal Of A Gold Card Or An Enhanced Permit To Carry A Concealed Pistol..... 74 158
Establish Use Of Force Course Standards 75 159
Limit The Liability Of Permit And Certificate Issuing Entities And Certified Use Of Force Instructors..... 76 160
Repeal Outdated Sections Regarding Enhanced Concealed Carry Permit Requirements..... 77 161

Firefighters

Make An Appropriation For Costs Related To Suppression Of Wildfires In The State And To Declare An Emergency..... 173 450
Make An Appropriation For The Construction Of A Maintenance Shop For The Wildland Fire Suppression Division In Rapid City And To Declare An Emergency 196 466
Make An Appropriation For The Construction Of A Maintenance Shop For The Wildland Fire Suppression Division In Hot Springs And To Declare An Emergency 197 467
Make An Appropriation To Support Volunteer Fire Departments And To Declare An Emergency 206 472

Fishing

Repeal The Authorized Forfeiture Of Property Used In The Illegal Capture Of Fish..... 148 386

Food and Drugs

Provide For Transparency In The Pricing Of Prescription Drugs 166 428

Fund
Create The South Dakota Board Of Physical Therapy And Make An Appropriation Therefor ... 136 325
Modify The Use Of Conservation District Special Revenue Fund Monies And To Provide An Appropriation Therefor ... 143 377
Game, Fish, Parks and Forestry
Repeal Certain Requirements For Game, Fish And Parks Licensing Agents ... 147 386
Repeal The Authorized Forfeiture Of Property Used In The Illegal Capture Of Fish ... 148 386
Make An Appropriation For The Construction Of A Maintenance Shop For The Wildland Fire Suppression Division In Rapid City And To Declare An Emergency ... 196 466
Make An Appropriation For The Construction Of A Maintenance Shop For The Wildland Fire Suppression Division In Hot Springs And To Declare An Emergency ... 197 467
Government Operations and Audit
Revise Department Of Corrections Reporting Requirements Concerning Abuse And Neglect Of Individuals In Private Contracted Facilities ... 89 211
Grants
Establish A Program For Housing Infrastructure Loans And Grants, Make An Appropriation Therefor, And To Declare An Emergency ... 41 108
Make Appropriations For Water And Environmental Purposes And To Declare An Emergency ... 149 387
Authorize The Awarding Of Deobligated Grants In Accordance With Policies Of The Board Of Water And Natural Resources ... 184 458
Make An Appropriation To The Department Of Human Services For The Development And Expansion Of Adult Day Services Programs And To Declare An Emergency ... 198 467
Make An Appropriation To The Department Of Health To Provide Grants To Support Mental Health And Suicide Prevention Programs And To Declare An Emergency ... 199 468
Make An Appropriation To Support Volunteer Fire Departments And To Declare An Emergency ... 206 472
Make An Appropriation To The Department Of Education For Grants To Support Career And Technical Education Programs And To Declare An Emergency ... 208 474
Health Care
Address Requirements For The Execution Of A Living Will ... 115 261
Add Dental Practices As Eligible Facilities To Participate In The Rural Health Care Recruitment Assistance Program ... 116 261
Prohibit The Issuance Of A Written Certification To A Pregnant Woman Or Breastfeeding Mother For Purposes Of Medical Cannabis Use ... 120 281
Provide A Medical Cannabis Patient A Registry Identification Card Fee Waiver In Certain Circumstances ... 121 285
Modify Debilitating Medical Conditions For Medical Cannabis Use ... 122 289
Prohibit Certain Medical And Surgical Interventions On Minor Patients ... 127 299
Expand Critical Incident Stress Management To Health Care Facility Personnel Providing Emergency Services ... 130 318
Authorize The Provision Of Medical Records And The Imposition Of Related Fees ... 134 322
Establish A Community Paramedic Endorsement ... 135 324
Create The South Dakota Board Of Physical Therapy And Make An Appropriation Therefor ... 136 325
Authorize The State's Participation In The Interstate Compact On Occupational Therapy Licensure ... 139 347

Update Provisions Related To The Licensure Of Speech Language Pathologists And Speech Language Pathology Assistants. 141 369
Prohibit Certain Restrictions In Employment Contracts 160 407
Provide For Transparency In The Pricing Of Prescription Drugs 166 428
Make An Appropriation To Reimburse Health Care Professionals Who Have Complied With The Requirements For Health Care Recruitment Assistance Programs And To Declare An Emergency..... 182 457
Make An Appropriation To The Department Of Health To Provide Grants To Support Mental Health And Suicide Prevention Programs And To Declare An Emergency 199 468

Higher Education

Revise Provisions Related To The South Dakota Science And Technology Authority 4 29
Establish A Uniform Method For Calculating High School Credit Received From Completing Postsecondary Courses 57 135
Modify The Limit Of Consecutive Terms For Members Of The Board Of Technical Education 59 136
Expand Eligibility For Certain Teachers Who Receive Reduced Tuition At Board Of Regents Institutions 60 137
Increase The Dollar Amount Of South Dakota Opportunity Scholarships. 61 138
Update A Reference To The Internal Revenue Code For Purposes Of Higher Education Savings Plans 63 147
Provide Free Tuition At Board Of Technical Education Institutions For Children Or Spouses Of Members Of The South Dakota National Guard Disabled Or Deceased In The Line Of Duty 93 216
Revise Certain Provisions Regarding The Payment Of Tuition For Members Of The South Dakota National Guard 110 251
Authorize The Sale Of Real Property In Lake County By The Board Of Regents And To Declare An Emergency 180 456
Provide An Increased Appropriation For The Construction Costs Of An Athletics Events Center At Dakota State University And To Declare An Emergency 181 456
Make An Appropriation For The Demolition And Reconstruction Of Agricultural Use Structures At South Dakota State University, And To Declare An Emergency. 186 459
Make An Appropriation For The Revised Construction Costs Of The Bioproducts Facility In Brookings And To Declare An Emergency 189 461
Amend An Appropriation For The Revised Construction Costs Of The Mineral Industries Building At The School Of Mines And Technology And To Declare An Emergency 190 462
Make An Appropriation For Design Costs Related To The Health Services Center At Black Hills State University Rapid City And To Declare An Emergency 202 470
Make An Appropriation For Design Costs Related To The New Lincoln Hall At Northern State University And To Declare An Emergency 204 471

Highways, Roads, and Bridges

Add Provisions Regarding Construction And Maintenance Of Livestock Pipelines On Highways 96 225
Revise Provisions Pertaining To Township Eligibility For The Rural Access Infrastructure Fund..... 97 226

Hoghouse-Vehicle Bill

Establish And Modify Provisions Related To Initiated Petitions..... 8 36
Authorize A Board Of A School District To Adopt Policies Regarding Students Who Are Registered Sex Offenders And To Declare An Emergency 58 136

Human Services
Make An Appropriation To The Department Of Human Services For The Development And Expansion Of Adult Day Services Programs And To Declare An Emergency 198 467
Insurance
Amend Provisions Regarding Delivery Of Electronic Insurance Documents 162 422
Streamline Examination Reports 163 425
Update Requirements For An Insurance Company Seeking To Do Business In This State 164 426
Repeal The Annual Grievance Reporting Requirements For Health Carriers 165 426
Provide For Transparency In The Pricing Of Prescription Drugs 166 428
Revise Rebating Provisions In The Insurance Code 167 437
Amend Provisions Of The Insurance Statutes Regarding Producer Recommendations And Responsibilities 168 439
Judicial Remedies
Modify Protections For Agricultural Operations From Nuisance Claims 65 149
Revise Provisions Related To Abandoned Mobile Or Manufactured Homes 66 151
Juvenile Justice
Modify A Court's Authority To Commit A Habitual Juvenile Offender To The Department Of Corrections 86 205
Authorize Community Response Teams To Recommend Alternative Community-Based Resources For Children Alleged To Be Delinquent And Children Alleged To Be In Need Of Supervision Prior To Adjudication. 87 207
Extend The Termination Date Of The Juvenile Justice Oversight Council And Modify Its Membership Requirements 88 209
Revise Department Of Corrections Reporting Requirements Concerning Abuse And Neglect Of Individuals In Private Contracted Facilities 89 211
Labor and Employment
Authorize Employers To Acquire And Make Available Opioid Antagonists 118 266
Law Enforcement
Identify The Means Of Conducting A Criminal Background Check For The Renewal Of A Gold Card Or An Enhanced Permit To Carry A Concealed Pistol 74 158
Establish Use Of Force Course Standards 75 159
Limit The Liability Of Permit And Certificate Issuing Entities And Certified Use Of Force Instructors 76 160
Repeal Outdated Sections Regarding Enhanced Concealed Carry Permit Requirements 77 161
Legislative Oversight
Revise The Appointment Of Legislators To The Agricultural Land Assessment Implementation And Oversight Advisory Task Force 28 80
Change Provisions Regarding The Appointment Of Legislators To Represent South Dakota In The Streamlined Sales And Use Tax Agreement 33 102
Revise Department Of Corrections Reporting Requirements Concerning Abuse And Neglect Of Individuals In Private Contracted Facilities 89 211
Revise Membership Of The Medical Marijuana Oversight Committee 125 296
Revise Provisions Regarding The Duties Of The Medical Marijuana Oversight Committee 126 298
Legislature and Statutes
Enhance The Penalty For Petition Circulation Perjury 9 38
Modify The Composition Of The State Tribal Relations Committee. 10 39
Repeal Provisions Requiring Prison Or Jail Cost Estimates And To Declare An Emergency 11 40
Update The Official Code Of Laws 12 41

Liability
Modify Protections For Agricultural Operations From Nuisance Claims 65 149
Limit The Liability Of Permit And Certificate Issuing Entities And Certified Use Of Force Instructors..... 76 160
Add Provisions Regarding Construction And Maintenance Of Livestock Pipelines On Highways..... 96 225
Create The South Dakota Board Of Physical Therapy And Make An Appropriation Therefor..... 136 325
License Plates
Create An Off-Road Vehicle Decal For Non Residents Visiting The State. 99 230
Licensure
Clarify And Modernize Cremation Requirements And Procedures 129 302
Provide For Licensure By Endorsement For Certain Licensed Professionals And Occupations..... 133 321
Create The South Dakota Board Of Physical Therapy And Make An Appropriation Therefor..... 136 325
Reinstate The Restricted Real Estate Broker's License For Auctioneers And Revise Real Estate Licensing 138 343
Authorize The State's Participation In The Interstate Compact On Occupational Therapy Licensure..... 139 347
Litigation
Make An Appropriation For The Payment Of Extraordinary Litigation Expenses And To Declare An Emergency..... 183 458
Manufactured Homes
Revise Provisions Related To Abandoned Mobile Or Manufactured Homes 66 151
Medical Cannabis
Prohibit The Issuance Of A Written Certification To A Pregnant Woman Or Breastfeeding Mother For Purposes Of Medical Cannabis Use..... 120 281
Provide A Medical Cannabis Patient A Registry Identification Card Fee Waiver In Certain Circumstances..... 121 285
Modify Debilitating Medical Conditions For Medical Cannabis Use..... 122 289
Modify Acceptable Conduct For Practitioners Related To Medical Cannabis..... 123 295
Allow Medical Cannabis Establishments To Maintain Certain Cardholder Data And To Declare An Emergency..... 124 296
Revise Membership Of The Medical Marijuana Oversight Committee 125 296
Revise Provisions Regarding The Duties Of The Medical Marijuana Oversight Committee 126 298
Medical Records
Authorize The Provision Of Medical Records And The Imposition Of Related Fees 134 322
Mentally Ill Persons
Revise Provisions Related To The Discharge Of A Defendant Restored To Competency 78 161
Clarify Emergency Commitments Of Severely Mentally Ill Persons By Appropriate Regional Facilities..... 90 212
Military Affairs
Repeal And Make Technical Changes To Provisions Regarding The Board Of Military Affairs..... 108 242
Revise Certain Provisions Regarding Military Affairs 109 244
Revise Certain Provisions Regarding The Payment Of Tuition For Members Of The South Dakota National Guard..... 110 251
Minors
Revise Provisions Related To Courtroom Modifications For Child Witnesses..... 85 204
Modify A Court's Authority To Commit A Habitual Juvenile Offender To The Department Of Corrections 86 205

Authorize Community Response Teams To Recommend Alternative Community-Based Resources For Children Alleged To Be Delinquent And Children Alleged To Be In Need Of Supervision Prior To Adjudication. 87 207
Extend The Termination Date Of The Juvenile Justice Oversight Council And Modify Its Membership Requirements 88 209
Revise Department Of Corrections Reporting Requirements Concerning Abuse And Neglect Of Individuals In Private Contracted Facilities..... 89 211
Revise Driver's License Suspensions For Restricted Permit Holders Over The Age Of Sixteen 101 235
Prohibit Certain Medical And Surgical Interventions On Minor Patients ... 127 299

Money Transmission
Revise Certain Provisions Regarding Money Transmission 159 399

Motor Fuel
Authorize Other Fuel Taxes To Be Included In The State's International Fuel Tax Agreement Collections..... 34 103
Exclude Township-Owned Self Propelled Machinery, Equipment, And Vehicles From Fuel Excise Tax. 35 105

Motor Vehicles
Update Additional Charges Allowed For Mailing Decals And Plates And To Declare An Emergency 98 227
Create An Off-Road Vehicle Decal For Non Residents Visiting The State. 99 230
Revise Provisions Regarding Vehicle Warranty Claims..... 100 231
Revise Driver's License Suspensions For Restricted Permit Holders Over The Age Of Sixteen 101 235
Accept Uniformed Services ID As Proof Of Veteran Status To Have Veteran Designation Added To A State License Or ID Card 102 236
Increase Civil Penalties For Commercial Driver's License Holders And Motor Carriers..... 103 237
Revise Certain Provisions Regarding The Operation Of A Golf Cart On A State Or County Highway..... 104 237
Ban Counterfeit Airbags..... 105 238
Revise Certain Provisions Regarding Consideration Of Out-Of-State Convictions For Driving Under The Influence..... 106 239
Establish Mandatory Sentences For Certain Driving While Under The Influence Violations..... 107 240
Modify Power Of Attorney Requirements For Certain Vehicle Transfer Authorizations 170 443
Make An Appropriation To The Department Of Revenue For The Modernization Of The Motor Vehicle Administration System And To Declare An Emergency 193 464

Municipal Government
Prohibit The Enactment Or Implementation Of An Ordinance, Resolution, Or Policy That Prohibits The Use Of An Energy Utility Service..... 20 76
Amend A Provision Allowing Municipalities To Jointly License And Regulate Intercity Services 25 79
Revise Certain Provisions Regarding On-Sale Alcoholic Beverage Licenses For Use At Municipality-Owned Facilities. 132 320

Native Americans
Ensure The Proper Labeling Of American Indian Arts And Crafts..... 142 377

Oil and Gas
Prohibit A Ban Of Fuel Gas Appliances Used By Consumers 19 75

Open Meetings
Revise Public Meeting Requirements..... 5 31

Organization of the Legislature
Modify The Composition Of The State Tribal Relations Committee. 10 39
Revise The Appointment Of Legislators To The Agricultural Land Assessment Implementation And Oversight Advisory Task Force..... 28 80

Penal Institutions, Probation and Parole
Limit Parole For Violent Offenders 80 167
Revise Certain Provisions Regarding The Reimbursement Of County Expenses In Detaining Parole Violators 81 171
Update Certain Provisions Regarding The Department Of Corrections And The Authority Of The Secretary Of Corrections 82 172
Establish Mandatory Sentences For Certain Driving While Under The Influence Violations 107 240
Penalty
Prohibit Purchasing Agencies From Contracting With Companies Owned Or Controlled By Certain Foreign Entities Or Governments 18 71
Increase Civil Penalties For Commercial Driver's License Holders And Motor Carriers..... 103 237
Pesticide
Modify Expiration Dates And Enforcement Actions Pertaining To Pesticide Applicator Licenses 145 378
Expand The Definition Of A Pesticide Dealer..... 146 383
Petitions
Enhance The Penalty For Petition Circulation Perjury 9 38
Revise Requirements To Relocate A County Seat 21 76
Provide For The Organization Of Townships Or Fractions Of Townships .. 23 77
Pipelines
Add Provisions Regarding Construction And Maintenance Of Livestock Pipelines On Highways 96 225
Update Certain Citations To Federal Regulations Regarding Pipeline Safety Inspections..... 158 397
Planning, Zoning and Housing Programs
Revise Certain Provisions Regarding The County Zoning And Appeals Process 39 107
Add A Provision Regarding The Use Of A Designated Refrigerant..... 40 108
Establish A Program For Housing Infrastructure Loans And Grants, Make An Appropriation Therefor, And To Declare An Emergency 41 108
Political Parties
Require Candidates For Party Precinct Committeeman Or Committeewoman To Include An Email Address And Phone Number In The Written Statement Submitted To The County Auditor 45 117
Procurement of Public Improvements
Establish A Program For Housing Infrastructure Loans And Grants, Make An Appropriation Therefor, And To Declare An Emergency 41 108
Make Appropriations For Water And Environmental Purposes And To Declare An Emergency 149 387
Authorize The Construction Of A National Guard Vehicle Maintenance Shop In Watertown, To Make An Appropriation Therefor, And To Declare An Emergency 176 452
Authorize The Construction Of An Addition To The BG Dean Mann Readiness Center In Sioux Falls, To Make An Appropriation Therefor, And To Declare An Emergency 177 453
Revise The Legal Description For The Construction Of A National Guard Readiness Center In Sioux Falls, Make An Additional Appropriation Therefor, And To Declare An Emergency 178 454
Provide An Increased Appropriation For The Construction Costs Of An Athletics Events Center At Dakota State University And To Declare An Emergency 181 456
Authorize The Awarding Of Deobligated Grants In Accordance With Policies Of The Board Of Water And Natural Resources 184 458

Increase The Funding For Construction Of An Addition To The Kinsman Building In Pierre, To Make An Appropriation Therefor, And To Declare An Emergency 185 459
Make An Appropriation For The Demolition And Reconstruction Of Agricultural Use Structures At South Dakota State University, And To Declare An Emergency. 186 459
Make An Appropriation For Improving The Buildings And Grounds Of The Capitol Complex And Declare An Emergency 187 460
Make An Appropriation For The Revised Construction Costs Of The Bioproducts Facility In Brookings And To Declare An Emergency 189 461
Amend An Appropriation For The Revised Construction Costs Of The Mineral Industries Building At The School Of Mines And Technology And To Declare An Emergency 190 462
Revise The Appropriation For A Livestock And Equestrian Complex At The State Fair And To Declare An Emergency..... 191 462
Authorize The South Dakota Department Of Corrections To Construct A Prison Facility For Offenders Committed To The Department Of Corrections In Rapid City, To Make An Appropriation Therefor, And To Declare An Emergency 192 463
Authorize The Department Of Corrections To Purchase Certain Real Property, To Contract For The Design Of A Prison Facility For Offenders Committed To The Department Of Corrections, To Make An Appropriation Therefor, To Transfer Funds To The Incarceration Construction Fund, And To Declare An Emergency 195 465
Make An Appropriation For The Construction Of A Maintenance Shop For The Wildland Fire Suppression Division In Rapid City And To Declare An Emergency 196 466
Make An Appropriation For The Construction Of A Maintenance Shop For The Wildland Fire Suppression Division In Hot Springs And To Declare An Emergency 197 467
Make An Appropriation For Design Costs Related To The Health Services Center At Black Hills State University Rapid City And To Declare An Emergency 202 470
Make An Appropriation For Design Costs Related To The New Lincoln Hall At Northern State University And To Declare An Emergency 204 471
Make An Appropriation To Expand Laboratory Space At The Sanford Underground Research Facility And To Declare An Emergency .. 205 472
Make An Appropriation To Rehabilitate The Rail Line From The City Of Milbank To The City Of Sisseton And To Declare An Emergency .. 207 473
Make An Appropriation For Increased Costs Related To The Construction Of The New State Public Health Laboratory And To Declare An Emergency 209 475

Professions and Occupations

Clarify And Modernize Cremation Requirements And Procedures 129 302
Provide For Licensure By Endorsement For Certain Licensed Professionals And Occupations..... 133 321
Authorize The Provision Of Medical Records And The Imposition Of Related Fees 134 322
Establish A Community Paramedic Endorsement..... 135 324
Create The South Dakota Board Of Physical Therapy And Make An Appropriation Therefor..... 136 325
Update Provisions Related To The Licensure Of Funeral Directors And The Provision Of Funeral Services 137 334
Reinstate The Restricted Real Estate Broker's License For Auctioneers And Revise Real Estate Licensing 138 343

Authorize The State's Participation In The Interstate Compact On Occupational Therapy Licensure 139 347
Revise Provisions Relating To Addiction And Prevention Services Professionals 140 365
Update Provisions Related To The Licensure Of Speech Language Pathologists And Speech Language Pathology Assistants. 141 369
Repeal The Sunset Date For Provisions Related To The Licensure Of Behavior Analysts 172 449

Promulgation of Rules

Transfer A Property Tax Relief Program To Change Income Requirements For Certain Property Tax Relief Programs And To Index Certain Income Schedules To Inflation 29 81
Revise Residency Requirements For The Purposes Of Voter Registration 42 111
Revise Certain Provisions Relating To Voter Registration 44 113
Establish Post-Election Audits. 50 122
Revise The Qualifications To Be A Member Of A County Recount Board .. 52 130
Establish A Uniform Method For Calculating High School Credit Received From Completing Postsecondary Courses 57 135
Establish Use Of Force Course Standards 75 159
Clarify And Modernize Cremation Requirements And Procedures 129 302
Establish A Community Paramedic Endorsement..... 135 324
Update Provisions Related To The Licensure Of Funeral Directors And The Provision Of Funeral Services 137 334
Update Provisions Related To The Licensure Of Speech Language Pathologists And Speech Language Pathology Assistants. 141 369

Property Tax

Increase An Amount Of Property Value Owned By A Local Industrial Development Corporation That Is Exempt From Taxation..... 27 80
Revise The Appointment Of Legislators To The Agricultural Land Assessment Implementation And Oversight Advisory Task Force..... 28 80
Transfer A Property Tax Relief Program To Change Income Requirements For Certain Property Tax Relief Programs And To Index Certain Income Schedules To Inflation 29 81
Revise Property Tax Levies For School Districts And To Revise The State Aid To General And Special Education Formulas 30 88

Public Health and Safety

Prohibit A Ban Of Fuel Gas Appliances Used By Consumers 19 75
Revise Certain Provisions Related To The Sealing Of Adoption Records .. 83 202
Revise And Repeal Obsolete Provisions Related To The Department Of Social Services..... 94 217
Address Requirements For The Execution Of A Living Will 115 261
Add Dental Practices As Eligible Facilities To Participate In The Rural Health Care Recruitment Assistance Program..... 116 261
Revise Provisions Related To Emergency And Involuntary Commitment For Alcohol And Drug Abuse 117 262
Authorize Employers To Acquire And Make Available Opioid Antagonists 118 266
Place Certain Substances On The Controlled Substances Schedule And To Declare An Emergency 119 266
Prohibit The Issuance Of A Written Certification To A Pregnant Woman Or Breastfeeding Mother For Purposes Of Medical Cannabis Use..... 120 281
Modify Debilitating Medical Conditions For Medical Cannabis Use..... 122 289
Revise Provisions Regarding The Duties Of The Medical Marijuana Oversight Committee 126 298
Prohibit Certain Medical And Surgical Interventions On Minor Patients ... 127 299
Revise The Order Of Precedence For The Right To Control The Disposition Of The Remains Of A Deceased Person..... 128 300
Clarify And Modernize Cremation Requirements And Procedures 129 302

Expand Critical Incident Stress Management To Health Care Facility Personnel Providing Emergency Services 130 318
Make An Appropriation For Costs Related To Suppression Of Wildfires In The State And To Declare An Emergency 173 450
Make An Appropriation For Costs Related To Disasters In The State And To Declare An Emergency 174 450
Make An Appropriation To Reimburse Health Care Professionals Who Have Complied With The Requirements For Health Care Recruitment Assistance Programs And To Declare An Emergency 182 457
Make An Appropriation For Increased Costs Related To The Construction Of The New State Public Health Laboratory And To Declare An Emergency . 209 475

Public Officers and Employees
Update Travel Expenses, Moving Expenses, And Other Reimbursements 13 43

Public Property, Purchases and Contracts
Modify Provisions Related To Procurement For The State And Other Purchasing Agencies 17 67
Prohibit Purchasing Agencies From Contracting With Companies Owned Or Controlled By Certain Foreign Entities Or Governments 18 71

Public Records and Files
Exempt Records Regarding Jail Inmate Disciplinary Matters From Public Inspection And Copying 6 32
Revise Certain Provisions Related To The Sealing Of Adoption Records .. 83 202

Public Utilities and Carriers
Prohibit A Ban Of Fuel Gas Appliances Used By Consumers 19 75
Prohibit The Enactment Or Implementation Of An Ordinance, Resolution, Or Policy That Prohibits The Use Of An Energy Utility Service 20 76
Update The Deposit Threshold For Actions Related To General Rate Cases 155 394
Revise Provisions Related To The One-Call Notification Board. 156 395
Update References To Certain Federal Motor Carrier Regulations 157 396
Update Certain Citations To Federal Regulations Regarding Pipeline Safety Inspections 158 397

Public Waters
Repeal Provisions Regarding The Creation Of River Basin Natural Resource Districts 154 392

Public Welfare and Assistance
Revise And Repeal Obsolete Provisions Related To The Department Of Social Services 94 217

Railroads
Make An Appropriation To Rehabilitate The Rail Line From The City Of Milbank To The City Of Sisseton And To Declare An Emergency 207 473

Reemployment Assistance
Revise Employer Contribution Rates 171 444

Reports
Revise Department Of Corrections Reporting Requirements Concerning Abuse And Neglect Of Individuals In Private Contracted Facilities 89 211
Amend Provisions Addressing Guardianships And Conservatorships 95 222
Require The Unified Judicial System To Assemble A Task Force To Address Barriers To Services For Emerging Adults Involved In The Justice System In South Dakota 175 451
Require The Unified Judicial System To Assemble A Task Force To Address The Provision Of Legal Services To Indigent Parties Within The South Dakota Court System And To Declare An Emergency 179 455

Residency
Revise Residency Requirements For The Purposes Of Voter Registration 42 111

Retail Sales and Service Tax
Reduce Certain Gross Receipts Tax Rates And A Use Tax Rate, And To Repeal A Conditional Reduction Of Certain Gross Receipts Tax Rates. 32 98
Change Provisions Regarding The Appointment Of Legislators To Represent South Dakota In The Streamlined Sales And Use Tax Agreement 33 102
Clarify That The Special Amusement Excise Tax Applies To The Sale Of Amusement Devices..... 36 105
Revise The Criteria For Remote Sellers Who Must Remit Sales Tax 38 106
Retirement System
Update And Clarify Certain Provisions Relating To The South Dakota Retirement System 14 44
Add Emergency Medical Services Personnel To Class B Public Safety Membership Of The South Dakota Retirement System 15 52
Revise Provisions Relating To Actuarial Terminology Used By The South Dakota Retirement System 16 59
Scholarships
Increase The Dollar Amount Of South Dakota Opportunity Scholarships. 61 138
School Curriculum
Establish A Uniform Method For Calculating High School Credit Received From Completing Postsecondary Courses 57 135
School Districts
Authorize School Boards To Modify The Length Of Terms For Members To Allow For Holding Joint Elections 55 132
Senate Joint Resolution
Proposing And Submitting To The Electors At The Next General Election An Amendment To The Constitution Of The State Of South Dakota, Updating References To Certain Officeholders And Persons 2 14
Sex Offenses
Authorize A Board Of A School District To Adopt Policies Regarding Students Who Are Registered Sex Offenders And To Declare An Emergency 58 136
Revise Certain Provisions Regarding The Crime Of Rape And Provide A Penalty Therefor..... 70 154
Provide Certain Definitions Related To The Crime Of Rape..... 71 155
Modify Certain Requirements For Removal From The Sex Offender Registry 72 156
Revise Provisions Related To Courtroom Modifications For Child Witnesses..... 85 204
State Affairs and Government
Revise Provisions Related To The South Dakota Science And Technology Authority 4 29
Revise Public Meeting Requirements..... 5 31
Expand Certification Options For Interpreters For The Deaf 7 35
Revise And Repeal Obsolete Provisions Related To The Department Of Social Services..... 94 217
Increase The Funding For Construction Of An Addition To The Kinsman Building In Pierre, To Make An Appropriation Therefor, And To Declare An Emergency 185 459
Revise The Appropriation For A Livestock And Equestrian Complex At The State Fair And To Declare An Emergency..... 191 462
Make An Appropriation For The Modernization Of The State's Enterprise Resource Planning Systems And To Declare An Emergency 200 469
Make An Appropriation To Expand Laboratory Space At The Sanford Underground Research Facility And To Declare An Emergency .. 205 472
State Aid to Education
Revise Property Tax Levies For School Districts And To Revise The State Aid To General And Special Education Formulas 30 88

State Employees
Update Travel Expenses, Moving Expenses, And Other Reimbursements 13 43
Students
Authorize A Board Of A School District To Adopt Policies Regarding Students Who Are Registered Sex Offenders And To Declare An Emergency 58 136
Sunset Clause
Reduce Certain Gross Receipts Tax Rates And A Use Tax Rate, And To Repeal A Conditional Reduction Of Certain Gross Receipts Tax Rates. 32 98
Extend The Termination Date Of The Juvenile Justice Oversight Council And Modify Its Membership Requirements 88 209
Repeal The Sunset Date For Provisions Related To The Licensure Of Behavior Analysts 172 449
Create A Pilot Program In The Unified Judicial System For Risk And Lethality Assessments For Certain Persons Accused Of Assault Or Protection Order Violations..... 188 461
Tax Exemptions
Increase An Amount Of Property Value Owned By A Local Industrial Development Corporation That Is Exempt From Taxation..... 27 80
Exclude Township-Owned Self Propelled Machinery, Equipment, And Vehicles From Fuel Excise Tax. 35 105
Clarify That The Special Amusement Excise Tax Applies To The Sale Of Amusement Devices..... 36 105
Taxation
Revise Certain References To The Internal Revenue Code 26 79
Increase An Amount Of Property Value Owned By A Local Industrial Development Corporation That Is Exempt From Taxation..... 27 80
Transfer A Property Tax Relief Program To Change Income Requirements For Certain Property Tax Relief Programs And To Index Certain Income Schedules To Inflation..... 29 81
Revise Property Tax Levies For School Districts And To Revise The State Aid To General And Special Education Formulas 30 88
Modify Tax Refunds For Elderly Persons And Persons With A Disability, To Make An Appropriation Therefor, And To Declare An Emergency..... 31 95
Reduce Certain Gross Receipts Tax Rates And A Use Tax Rate, And To Repeal A Conditional Reduction Of Certain Gross Receipts Tax Rates. 32 98
Change Provisions Regarding The Appointment Of Legislators To Represent South Dakota In The Streamlined Sales And Use Tax Agreement 33 102
Authorize Other Fuel Taxes To Be Included In The State's International Fuel Tax Agreement Collections..... 34 103
Exclude Township-Owned Self Propelled Machinery, Equipment, And Vehicles From Fuel Excise Tax. 35 105
Clarify That The Special Amusement Excise Tax Applies To The Sale Of Amusement Devices..... 36 105
Provide For The Uniform Administration Of Tobacco Products Taxes 37 106
Revise The Criteria For Remote Sellers Who Must Remit Sales Tax..... 38 106
Teachers
Expand Eligibility For Certain Teachers Who Receive Reduced Tuition At Board Of Regents Institutions 60 137
Technical/Cleanup Changes
Proposing And Submitting To The Electors At The Next General Election An Amendment To The Constitution Of The State Of South Dakota, Updating References To Certain Officeholders And Persons 2 14
Update References To The Governor, Lieutenant Governor, And Other Persons..... 3 20
Technology
Revise Provisions Related To The South Dakota Science And Technology Authority 4 29

Townships
Provide For The Organization Of Townships Or Fractions Of Townships .. 23 77
Clarify Registration And Residence Requirements For Voting At A Township Meeting 24 78
Revise Provisions Pertaining To Township Eligibility For The Rural Access Infrastructure Fund..... 97 226
Trade Regulation
Ensure The Proper Labeling Of American Indian Arts And Crafts..... 142 377
Transfer of Funds
Authorize The Department Of Corrections To Purchase Certain Real Property, To Contract For The Design Of A Prison Facility For Offenders Committed To The Department Of Corrections, To Make An Appropriation Therefor, To Transfer Funds To The Incarceration Construction Fund, And To Declare An Emergency 195 465
Truancy
Clarify The Duties Of Truancy Officers..... 56 135
Tuition
Expand Eligibility For Certain Teachers Who Receive Reduced Tuition At Board Of Regents Institutions..... 60 137
Provide Free Tuition At Board Of Technical Education Institutions For Children Or Spouses Of Members Of The South Dakota National Guard Disabled Or Deceased In The Line Of Duty 93 216
Revise Certain Provisions Regarding The Payment Of Tuition For Members Of The South Dakota National Guard..... 110 251
Uniform Probate Code
Amend Provisions Addressing Guardianships And Conservatorships..... 95 222
Veterans Affairs
Provide Free Tuition At Board Of Technical Education Institutions For Children Or Spouses Of Members Of The South Dakota National Guard Disabled Or Deceased In The Line Of Duty 93 216
Revise Certain Provisions Pertaining To The Department Of Veterans Affairs And Residency In The State Veterans Home 111 253
Increase The Basic Salary Schedule For County Veterans Service Officers 112 259
Provide A Stipend For The Erection Of A Private Headstone For A Deceased Veteran 113 259
Increase The Maximum Amount Of Dollars Payable By The State To Erect The Headstone Of A Deceased Veteran 114 260
Voting
Revise Requirements To Relocate A County Seat 21 76
Clarify Registration And Residence Requirements For Voting At A Township Meeting 24 78
Revise Residency Requirements For The Purposes Of Voter Registration 42 111
Prohibit Ranked-Choice Voting. 43 112
Revise Certain Provisions Relating To Voter Registration..... 44 113
Modify Provisions For A Statewide Runoff Election..... 46 118
Establish Post-Election Audits. 50 122
Modify Certain Provisions Pertaining To Absentee Voting..... 51 124
Warranty
Revise Provisions Regarding Vehicle Warranty Claims..... 100 231
Water Management
Make Appropriations For Water And Environmental Purposes And To Declare An Emergency 149 387
Revise Provisions Regarding Water Development Districts..... 150 390
Raise The Revenue Threshold For A Required Audit Of A Water Development District..... 151 390

Authorize Participation In Contracts By Certain Board Members And Employees Of Water Districts 152 391
Authorize Compensation For Water Project District Directors 153 392
Repeal Provisions Regarding The Creation Of River Basin Natural Resource Districts 154 392
Authorize The Awarding Of Deobligated Grants In Accordance With Policies Of The Board Of Water And Natural Resources 184 458
Make An Appropriation To The State Conservation Commission And To Declare An Emergency 194 464

Water Quality

Require That Certain Operations Obtain Their Own General Or Individual Water Pollution Permits 131 319
Make Appropriations For Water And Environmental Purposes And To Declare An Emergency 149 387

CROSS REFERENCE TABLE

Bill	Chap.	Bill	Chap.	Bill	Chap.	Bill	Chap.
1	122	69	10	189	18	1057	22
2	89	70	85	198	124	1059	135
4	86	71	34	200	152	1060	17
5	88	72	78	204	130	1062	53
6	87	73	35	207	54	1063	175
7	90	75	84	210	211	1064	179
8	140	76	133	1002	12	1065	114
9	91	77	138	1003	11	1071	75
10	7	78	136	1004	63	1078	198
11	155	81	77	1005	158	1079	199
12	176	83	150	1006	185	1080	127
13	177	84	153	1007	15	1088	164
14	178	85	167	1008	16	1090	65
15	102	86	45	1009	14	1091	168
16	207	88	25	1010	172	1101	142
17	149	89	64	1011	171	1108	66
18	191	90	71	1012	165	1112	46
19	183	91	70	1013	157	1114	52
20	184	92	131	1014	141	1121	146
21	201	93	181	1015	137	1123	55
22	163	95	161	1016	192	1124	49
23	200	98	74	1017	195	1127	206
24	30	102	47	1018	148	1132	126
25	182	103	188	1019	147	1135	166
26	29	113	8	1021	194	1137	32
27	119	115	106	1022	209	1140	48
28	94	118	60	1023	196	1145	128
29	26	120	27	1024	197	1147	23
30	38	132	28	1025	144	1148	24
31	99	134	125	1026	173	1150	121
33	190	139	42	1027	174	1153	13
34	180	140	44	1028	145	1154	123
35	205	141	129	1029	39	1155	116
37	62	143	151	1030	189	1158	105
41	41	145	97	1032	186	1162	118
42	170	146	80	1033	37	1165	51
43	159	147	33	1034	31	1170	107
44	154	150	96	1035	193	1174	92
46	9	159	100	1036	103	1175	3
48	67	160	50	1038	111	1176	132
50	68	161	203	1039	110	1183	139
51	81	162	5	1041	73	1184	156
52	82	168	58	1042	98	1185	160
53	6	172	202	1045	112	1189	169
55	43	173	204	1046	93	1191	56
56	21	174	20	1047	109	1196	187
58	36	176	72	1048	108	1210	143
59	208	179	4	1049	210	1215	104
61	101	180	115	1053	120	1220	69
62	162	181	134	1054	113	1222	76
64	79	182	57	1055	61	1231	83
67	117	188	40	1056	59	1239	19
1240	95						

CA D	1
SJR505	2
SCR 22-11	212
SCR 22-12	213
SCR 22-13	214
SCR 22-14	215
SCR 22-15	216
SCR 22-16	217
SCR 23-01	218
SCR 23-02	219
SCR 23-03	220
SCR 23-04	221
SCR 23-05	222
SCR 23-06	223
SCR 23-07	224
SCR 23-08	225
SCR 23-09	226
SCR 23-10	227
SCR 23-11	228
SCR 23-12	229
SCR 23-13	230
SCR 23-14	231
SCR 23-15	232

TABLE OF ENACTED, AMENDED, AND REPEALED SECTIONS

	Section	Ch.	Page
STATE AFFAIRS AND GOVERNMENT			
1-1-21, amended	Sec. 1	3	20
1-7-1, amended	Sec. 1	82	172
1-7-1, amended	Sec. 2	3	20
1-7-1.2, amended	Sec. 3	3	20
1-7-4, amended	Sec. 4	3	20
1-8-1, amended	Sec. 5	3	20
1-11-8, amended	Sec. 6	3	20
1-15-1.12, repealed	Sec. 2	82	172
1-15-36 , repealed	Sec. 3	82	172
1-16A-4, amended	Sec. 7	3	20
1-16H-5, amended	Sec. 1	4	29
1-16H-15, amended	Sec. 2	4	29
1-25-1, amended	Sec. 1	5	31
1-27-1.5, amended	Sec. 1	6	32
1-29-1, amended	Sec. 8	3	20
1-30-11, amended	Sec. 9	3	20
1-33-4, amended	Sec.10	3	20
1-36-27, amended	Sec. 1	94	217
1-36A-10.5, amended	Sec. 1	7	35
1-46-6 , repealed	Sec. 1	108	242
1-53-25, amended	Sec.11	3	20
1-53-26, amended	Sec.12	3	20
1-54-4, amended	Sec.13	3	20
LEGISLATURE AND STATUTES			
2-1-1.1, amended	Sec. 1	8	36
2-1-1.2, amended	Sec. 2	8	36
2-1-10, amended	Sec. 1	9	38
2-1-15, amended	Sec. 3	8	36
2-4-3.1, amended	Sec.14	3	20
2-6-21, amended	Sec. 1	10	39
2-7-20.1, amended	Sec.15	3	20
2-7-20.2, amended	Sec.16	3	20
2-7-20.3, amended	Sec.17	3	20
2-7-20.4, amended	Sec.18	3	20
2-9-33 , repealed (effective February 9, 2023)	Sec. 1	11	40
2-9-34 , repealed (effective February 9, 2023)	Sec. 2	11	40
2-16-13, amended	Sec. 1	12	41
2-16-15, amended	Sec. 2	12	41
2-16-16, amended	Sec. 3	12	41
PUBLIC OFFICERS AND EMPLOYEES			
3-9-2.2, amended	Sec. 1	13	43
3-9-6, amended	Sec.19	3	20
3-9-9, amended	Sec. 2	13	43
3-9-10, amended	Sec. 3	13	43
3-9-12, amended	Sec. 4	13	43
3-12C-101, amended	Sec. 1	14	44
3-12C-101, amended	Sec. 1	15	52
3-12C-101, amended	Sec. 1	16	59
3-12C-102, amended	Sec. 2	16	59
3-12C-109, amended	Sec. 3	16	59
3-12C-113, enacted	Sec. 2	14	44

3-12C-509, amended ..... Sec. 3 14 44
3-12C-516, amended ..... Sec. 4 14 44
3-12C-704, amended ..... Sec. 4 16 59
3-12C-1106, amended ..... Sec. 5 14 44
3-12C-1303, amended ..... Sec. 6 14 44
3-17-4, amended Sec.20 3 20
3-18-1, amended ..... Sec. 1 62 139
PUBLIC FISCAL ADMINISTRATION
4-7-3, amended Sec.21 3 20
4-7-8, amended Sec.22 3 20
4-7-12, amended Sec.23 3 20
4-8-17, amended Sec.24 3 20
4-8A-9, amended Sec.25 3 20
PUBLIC PROPERTY, PURCHASES AND CONTRACTS
5-2-11, amended Sec.26 3 20
5-9-15, amended Sec.27 3 20
5-10-1.2, amended ..... Sec. 2 62 139
5-12-7, amended ..... Sec. 4 82 172
5-18A-1, amended ..... Sec. 1 17 67
5-18A-1, amended ..... Sec. 1 18 71
5-18A-11, amended ..... Sec. 2 17 67
5-18A-14, amended ..... Sec. 3 17 67
5-18A-22, amended ..... Sec. 4 17 67
5-18A-50, enacted ..... Sec. 2 18 71
5-18A-51, enacted ..... Sec. 3 18 71
5-18A-52, enacted ..... Sec. 4 18 71
5-18A-53, enacted ..... Sec. 5 18 71
LOCAL GOVERNMENT GENERALLY
6-1-23, enacted ..... Sec. 1 19 75
6-1-24, enacted ..... Sec. 1 20 76
COUNTIES
7-6-4, amended ..... Sec. 1 21 76
7-6-7, amended ..... Sec. 2 21 76
7-7-1.4, amended ..... Sec. 1 22 77
7-12-23, amended ..... Sec. 5 82 172
TOWNSHIPS
8-1-8, amended ..... Sec. 1 23 77
8-1-9, amended ..... Sec. 2 23 77
8-3-7, amended ..... Sec. 1 24 78
8-3-9, amended ..... Sec. 2 24 78
MUNICIPAL GOVERNMENT
9-35-11, amended ..... Sec. 1 25 79
TAXATION
10-1-47, amended ..... Sec. 1 26 79
10-4-8.1, amended ..... Sec. 1 27 80
10-4-24.12, amended Sec.12 29 81
10-4-24.13, amended Sec.13 29 81
10-4-24.15, enacted Sec.14 29 81
10-6-134, amended ..... Sec. 1 28 80
10-6B-6, amended Sec.15 29 81
10-6B-7, amended Sec.16 29 81
10-6B-7.1, enacted Sec.17 29 81
10-6C-1, enacted ..... Sec. 1 29 81
10-6C-2, enacted ..... Sec. 2 29 81
10-6C-3, enacted ..... Sec. 3 29 81
10-6C-4, enacted ..... Sec. 4 29 81

10-6C-5, enacted ..... Sec. 5 29 81
10-6C-6, enacted ..... Sec. 6 29 81
10-6C-7, enacted ..... Sec. 7 29 81
10-6C-8, enacted ..... Sec. 8 29 81
10-6C-9, enacted ..... Sec. 9 29 81
10-6C-10, enacted Sec.10 29 81
10-6C-11, enacted Sec.11 29 81
10-12-42, amended ..... Sec. 1 30 88
10-18A-5, amended (effective February 9, 2023) ..... Sec. 4 31 95
10-18A-6, amended (effective February 9, 2023) ..... Sec. 5 31 95
10-45-2, amended ..... Sec. 1 32 98
10-45-5, amended ..... Sec. 2 32 98
10-45-5.3, amended ..... Sec. 3 32 98
10-45-6, amended ..... Sec. 4 32 98
10-45-6.1, amended ..... Sec. 5 32 98
10-45-6.2, amended ..... Sec. 6 32 98
10-45-8, amended ..... Sec. 7 32 98
10-45-71, amended ..... Sec. 8 32 98
10-45A-5, amended (effective February 9, 2023) ..... Sec. 6 31 95
10-45A-6, amended (effective February 9, 2023) ..... Sec. 7 31 95
10-45C-3, amended ..... Sec. 1 33 102
10-46-2.1, amended ..... Sec. 9 32 98
10-46-2.2, amended Sec.10 32 98
10-46-58, amended Sec.11 32 98
10-46-69, amended Sec.12 32 98
10-46-69.1, amended Sec.13 32 98
10-46-69.2, amended Sec.14 32 98
10-46E-1, amended Sec.15 32 98
10-47B-7, amended ..... Sec. 1 34 103
10-47B-13, amended ..... Sec. 1 35 105
10-47B-129, amended ..... Sec. 2 34 103
10-47B-172, amended ..... Sec. 3 34 103
10-47B-173, amended ..... Sec. 4 34 103
10-47B-174, amended ..... Sec. 5 34 103
10-47B-176, amended ..... Sec. 6 34 103
10-47B-180.1, amended ..... Sec. 7 34 103
10-58-1, amended ..... Sec. 1 36 105
10-58-1, amended Sec.16 32 98
10-59-1, amended ..... Sec. 1 37 106
10-64-2, amended ..... Sec. 1 38 106
10-64-9 , repealed Sec.18 32 98

PLANNING, ZONING AND HOUSING PROGRAMS

11-2-17.3, amended ..... Sec. 1 39 107
11-2-17.5, amended ..... Sec. 2 39 107
11-2-65.1, amended ..... Sec. 3 39 107
11-10-14, enacted ..... Sec. 1 40 108
11-15-1, enacted (effective February 1, 2023) ..... Sec. 8 41 108
11-15-2, enacted (effective February 1, 2023) ..... Sec. 9 41 108
11-15-3, enacted (effective February 1, 2023) Sec.10 41 108
11-15-4, enacted (effective February 1, 2023) Sec.11 41 108
11-15-5, enacted (effective February 1, 2023) Sec.12 41 108
11-15-6, enacted (effective February 1, 2023) Sec.13 41 108
11-15-7, enacted (effective February 1, 2023) Sec.14 41 108

ELECTIONS

12-1-4, amended ..... Sec. 1 42 111
12-1-9, amended ..... Sec. 9 50 122
12-1-9.1, enacted ..... Sec. 1 43 112

12-3-1, amended ..... Sec. 2 42 111
12-4-1, amended ..... Sec. 1 44 113
12-4-1, amended ..... Sec. 3 42 111
12-4-1.2, enacted ..... Sec. 4 42 111
12-4-3.2, amended ..... Sec. 2 44 113
12-4-4.2, amended ..... Sec. 3 44 113
12-4-4.12, amended ..... Sec. 4 44 113
12-4-5.2, amended ..... Sec. 5 44 113
12-4-5.3, amended ..... Sec. 6 44 113
12-4-5.5, amended ..... Sec. 7 44 113
12-4-8.1, amended ..... Sec. 8 44 113
12-4-10, amended ..... Sec. 9 44 113
12-4-15, amended Sec.10 44 113
12-4-18, amended Sec.11 44 113
12-4-24, amended Sec.12 44 113
12-4-34, amended Sec.13 44 113
12-4-37, amended Sec.14 44 113
12-4-54, enacted Sec.15 44 113
12-4-55, enacted Sec.16 44 113
12-4-56, enacted Sec.17 44 113
12-4-57, enacted Sec.18 44 113
12-5-4, amended ..... Sec. 1 45 117
12-5-4, amended ..... Sec. 1 45 117
12-5-4, amended ..... Sec. 1 45 117
12-6-8, amended ..... Sec. 2 9 38
12-6-51.1, amended ..... Sec. 1 46 118
12-12-6, enacted ..... Sec. 1 47 119
12-13-26.1, amended ..... Sec. 1 48 119
12-13-26.2, amended ..... Sec. 2 48 119
12-17B-5, amended ..... Sec. 1 49 120
12-17B-5.1, enacted ..... Sec. 2 49 120
12-17B-5.2, enacted ..... Sec. 3 49 120
12-17B-16, amended ..... Sec. 4 49 120
12-17B-18, enacted ..... Sec. 1 50 122
12-17B-19, enacted ..... Sec. 2 50 122
12-17B-20, enacted ..... Sec. 3 50 122
12-17B-21, enacted ..... Sec. 4 50 122
12-17B-22, enacted ..... Sec. 5 50 122
12-17B-23, enacted ..... Sec. 6 50 122
12-17B-24, enacted ..... Sec. 7 50 122
12-17B-25, enacted ..... Sec. 8 50 122
12-19-1.3, enacted Sec.20 51 124
12-19-2, amended ..... Sec. 1 51 124
12-19-2.2, amended ..... Sec. 2 51 124
12-19-2.3, amended ..... Sec. 3 51 124
12-19-2.5, amended ..... Sec. 4 51 124
12-19-4, amended ..... Sec. 5 51 124
12-19-5, amended ..... Sec. 6 51 124
12-19-7, amended ..... Sec. 7 51 124
12-19-7.1, amended ..... Sec. 8 51 124
12-19-9, amended ..... Sec. 9 51 124
12-19-9.1, amended Sec.10 51 124
12-19-9.2, amended Sec.11 51 124
12-19-9.3, enacted Sec.21 51 124
12-19-10, amended Sec.12 51 124
12-19-10.1, amended Sec.13 51 124

12-19-12, amended Sec.14 51 124
12-19-14, amended Sec.15 51 124
12-19-44, amended Sec.16 51 124
12-19-48 , repealed Sec.22 51 124
12-19-49 , repealed Sec.17 51 124
12-19-54, amended Sec.18 51 124
12-19-55, amended Sec.19 51 124
12-20-46, amended Sec.28 3 20
12-21-2, amended ..... Sec. 1 52 130
12-21-20, amended ..... Sec. 1 53 130
12-27-20, amended ..... Sec. 1 54 131
EDUCATION
13-6-62, amended ..... Sec. 6 55 132
13-6-84.3, amended ..... Sec. 7 55 132
13-7-10, amended ..... Sec. 8 55 132
13-7-30, amended ..... Sec. 9 55 132
13-7-32, enacted ..... Sec. 3 55 132
13-7-33, enacted ..... Sec. 4 55 132
13-7-34, enacted ..... Sec. 5 55 132
13-8-2, amended ..... Sec. 1 55 132
13-8-3, amended Sec.10 55 132
13-8-4, amended ..... Sec. 2 55 132
13-13-10.1, amended ..... Sec. 2 30 88
13-27-20, amended ..... Sec. 1 56 135
13-28-37, amended ..... Sec. 1 57 135
13-28-53, enacted (effective March 20, 2023) ..... Sec. 1 58 136
13-33B-3, amended ..... Sec. 3 62 139
13-33B-9, amended ..... Sec. 4 62 139
13-37-16, amended ..... Sec. 3 30 88
13-37-35.1, amended ..... Sec. 4 30 88
13-39A-4, amended ..... Sec. 1 59 136
13-49-14.12, amended ..... Sec. 5 62 139
13-49-14.13, amended ..... Sec. 6 62 139
13-49-39, amended ..... Sec. 7 62 139
13-51A-1, amended ..... Sec. 8 62 139
13-55-7, amended ..... Sec. 1 109 244
13-55-10, amended ..... Sec. 1 93 216
13-55-24, amended ..... Sec. 1 60 137
13-55-25, amended ..... Sec. 2 60 137
13-55-26, amended ..... Sec. 3 60 137
13-55-27, amended ..... Sec. 4 60 137
13-55-28, amended ..... Sec. 5 60 137
13-55-33, amended ..... Sec. 1 61 138
13-61-3, amended ..... Sec. 9 62 139
13-62-1, amended Sec.10 62 139
13-62-2, amended Sec.11 62 139
13-62-3, amended Sec.12 62 139
13-62-4, amended Sec.13 62 139
13-62-5, amended Sec.14 62 139
13-62-6, amended Sec.15 62 139
13-62-12, amended Sec.16 62 139
13-62-13, amended Sec.17 62 139
13-62-14, amended Sec.18 62 139
13-62-15, amended Sec.19 62 139
13-63-1, amended ..... Sec. 1 63 147

COURTS AND JUDICIARY
16-2-60, amended ..... Sec. 1 64 149
16-22-16, amended ..... Sec. 6 82 172
OATHS AND ACKNOWLEDGMENTS
18-4-6, amended ..... Sec. 2 109 244
EVIDENCE
19-19-516, amended ..... Sec. 7 82 172
JUDICIAL REMEDIES
21-10-25, amended ..... Sec. 1 65 149
21-10-25.2, amended ..... Sec. 2 65 149
21-10-25.3, amended ..... Sec. 3 65 149
21-10-25.7, enacted ..... Sec. 4 65 149
21-10-25.8, enacted ..... Sec. 5 65 149
21-10-25.9, enacted ..... Sec. 6 65 149
21-10-25.10, enacted ..... Sec. 7 65 149
21-22-18, amended ..... Sec. 1 161 410
21-27-9.2, amended ..... Sec. 8 82 172
21-36-5, amended Sec.29 3 20
21-54-15, amended ..... Sec. 1 66 151
21-54-16, amended ..... Sec. 2 66 151
21-54-17.1, enacted ..... Sec. 3 66 151
21-54-18, amended ..... Sec. 4 66 151
CRIMES
22-1-4, amended ..... Sec. 9 82 172
22-4-1, amended ..... Sec. 1 67 153
22-4-3, enacted ..... Sec. 2 67 153
22-6-1, amended Sec.10 82 172
22-6-11, amended Sec.11 82 172
22-11-19, amended ..... Sec. 1 68 153
22-14-12, amended Sec.12 82 172
22-17-5.2, enacted ..... Sec. 1 69 154
22-22-1, amended ..... Sec. 1 70 154
22-22-1.3, amended Sec.13 82 172
22-22-1.5, enacted ..... Sec. 1 71 155
22-24B-17, amended ..... Sec. 2 72 156
22-24B-19.4, enacted ..... Sec. 1 72 156
22-24B-20, amended ..... Sec. 3 72 156
22-42-2, amended Sec.14 82 172
22-42-3, amended Sec.15 82 172
22-42-4, amended Sec.16 82 172
22-42-4.3, amended Sec.17 82 172
22-42-7, amended Sec.18 82 172
22-42-19, amended Sec.19 82 172
22-42A-1, amended ..... Sec. 1 73 157
LAW ENFORCEMENT
23-5-8, amended Sec.20 82 172
23-7-7.2, amended ..... Sec. 1 76 160
23-7-54.1, repealed ..... Sec. 1 77 161
23-7-54.3, repealed ..... Sec. 2 77 161
23-7-56, amended ..... Sec. 1 74 158
23-7-59, amended ..... Sec. 1 75 159
23-7-59, amended ..... Sec. 2 76 160
23-7-59.1, enacted ..... Sec. 3 76 160
23-7-62, amended ..... Sec. 2 74 158
23-24-4, amended Sec.30 3 20
23-24-8, amended Sec.31 3 20

23-24-21, amended	Sec.32	3	20
23-24-23, amended	Sec.33	3	20
23-24-28, amended	Sec.34	3	20
23-24A-12, amended	Sec.35	3	20
CRIMINAL PROCEDURE			
23A-7-9, amended	Sec.21	82	172
23A-10A-4.1, amended	Sec. 1	78	161
23A-10A-17 , repealed	Sec. 1	79	162
23A-27-1.2, amended	Sec.22	82	172
23A-27-4, amended	Sec.23	82	172
23A-27-10, amended	Sec.24	82	172
23A-27-18, amended	Sec.25	82	172
23A-27-18.1, amended	Sec.26	82	172
23A-27-18.2, amended	Sec.27	82	172
23A-27-18.4, amended	Sec.28	82	172
23A-27-25.7, amended	Sec.29	82	172
23A-27-30, amended	Sec.30	82	172
23A-27-32, amended	Sec.31	82	172
23A-27-33, amended	Sec.32	82	172
23A-27-35, amended	Sec.33	82	172
23A-27-38, amended	Sec.34	82	172
23A-27A-15, amended	Sec.35	82	172
23A-27A-16, amended	Sec.36	82	172
23A-27A-17, amended	Sec.37	82	172
23A-27A-21, amended	Sec.38	82	172
23A-27A-31.1, repealed	Sec.39	82	172
23A-27A-32, amended	Sec.40	82	172
23A-27A-32.1, amended	Sec.41	82	172
23A-27A-33, amended	Sec.42	82	172
23A-27A-34, amended	Sec.43	82	172
23A-27A-34.1, amended	Sec.44	82	172
23A-27A-37.1, repealed	Sec.45	82	172
23A-27A-39, amended	Sec.46	82	172
23A-28-3, amended	Sec.47	82	172
23A-28-6, amended	Sec.48	82	172
23A-43-31, amended	Sec.49	82	172
23A-50-1, amended	Sec. 2	79	162
23A-50-2 , repealed	Sec. 3	79	162
23A-50-3 , repealed	Sec. 4	79	162
23A-50-4 , repealed	Sec. 5	79	162
23A-50-5, amended	Sec. 6	79	162
23A-50-6, amended	Sec. 7	79	162
23A-50-8 , repealed	Sec. 8	79	162
23A-50-12 , repealed	Sec. 9	79	162
23A-50-13 , repealed	Sec.10	79	162
23A-50-14 , repealed	Sec.11	79	162
CORRECTIONAL FACILITIES AND PAROLE			
24-1-1, amended	Sec.50	82	172
24-1-4, amended	Sec.51	82	172
24-1-6, amended	Sec.52	82	172
24-1-8, amended	Sec.53	82	172
24-1-11, amended	Sec.54	82	172
24-1-12, amended	Sec.55	82	172
24-1-13, amended	Sec.56	82	172
24-1-16, amended	Sec.57	82	172
24-1-25, amended	Sec.58	82	172
24-1-26, amended	Sec.59	82	172

24-1-27, amended Sec.60 82 172
24-1-35, amended Sec.61 82 172
24-2-1, amended Sec.62 82 172
24-2-2.1, amended Sec.64 82 172
24-2-2 , repealed Sec.63 82 172
24-2-5, amended Sec.65 82 172
24-2-9, amended Sec.66 82 172
24-2-10, amended Sec.67 82 172
24-2-12, amended Sec.68 82 172
24-2-14, amended Sec.69 82 172
24-2-17, amended Sec.70 82 172
24-2-22, amended Sec.71 82 172
24-2-25, amended Sec.72 82 172
24-2-27, amended Sec.73 82 172
24-5-3, amended Sec.74 82 172
24-5-5, amended Sec.75 82 172
24-5-6, amended Sec.76 82 172
24-6A-1 , repealed Sec.77 82 172
24-8-1, amended Sec.78 82 172
24-8-4, amended Sec.79 82 172
24-11-55 , repealed Sec.12 79 162
24-11-56 , repealed Sec.13 79 162
24-11-57 , repealed Sec.14 79 162
24-11-58 , repealed Sec.15 79 162
24-11-59.1, repealed Sec.17 79 162
24-11-59 , repealed Sec.16 79 162
24-15-1, amended Sec.80 82 172
24-15-1.1, amended Sec.81 82 172
24-15-3, amended Sec.82 82 172
24-15-4.1, enacted ..... Sec. 1 80 167
24-15-4.1, enacted ..... Sec. 1 80 167
24-15-4.1, enacted ..... Sec. 1 80 167
24-15-4.2, enacted ..... Sec. 2 80 167
24-15-4.2, enacted ..... Sec. 2 80 167
24-15-4.2, enacted ..... Sec. 2 80 167
24-15-7.1, amended Sec.83 82 172
24-15-8, amended Sec.84 82 172
24-15-9, amended Sec.85 82 172
24-15-21, amended Sec.86 82 172
24-15-22, amended Sec.87 82 172
24-15-23, amended Sec.88 82 172
24-15-28, amended ..... Sec. 1 81 171
24-15-29, amended ..... Sec. 2 81 171
24-15A-4 , repealed Sec.89 82 172
24-15A-6, amended Sec.90 82 172
24-15A-15, amended Sec.91 82 172
24-15A-20, amended Sec.92 82 172
24-15A-32, amended ..... Sec. 3 80 167
24-15A-32, amended ..... Sec. 3 80 167
24-15A-32, amended ..... Sec. 3 80 167
24-15A-32, amended Sec.93 82 172

DOMESTIC RELATIONS

25-6-4, amended Sec.94 82 172
25-6-15, amended ..... Sec. 1 83 202
25-7-6.25, amended ..... Sec. 5 84 203
25-8-3, amended ..... Sec. 1 84 203

25-8-7, amended ..... Sec. 2 84 203
25-8-12, amended ..... Sec. 3 84 203
25-8-62, amended ..... Sec. 4 84 203
MINORS
26-8A-31, amended ..... Sec. 1 85 204
26-8A-31.1, enacted ..... Sec. 2 85 204
26-8B-4, amended ..... Sec. 3 87 207
26-8C-5, amended ..... Sec. 4 87 207
26-8C-7, amended ..... Sec. 1 86 205
26-8D-1, amended ..... Sec. 1 87 207
26-8D-8, amended ..... Sec. 2 88 209
26-8D-9, amended ..... Sec. 1 88 209
26-8D-10, amended ..... Sec. 2 87 207
26-11A-6, amended Sec.95 82 172
26-11A-20, amended Sec.96 82 172
26-11A-33.1, amended ..... Sec. 1 89 211
MENTALLY ILL PERSONS
27A-10-19, amended ..... Sec. 1 90 212
DEVELOPMENTALLY DISABLED PERSONS
27B-3-46, amended ..... Sec. 1 91 212
27B-10-1, enacted ..... Sec. 1 92 213
27B-10-2, enacted ..... Sec. 2 92 213
27B-10-3, enacted ..... Sec. 3 92 213
27B-10-4, enacted ..... Sec. 4 92 213
27B-10-5, enacted ..... Sec. 5 92 213
27B-10-6, enacted ..... Sec. 6 92 213
27B-10-7, enacted ..... Sec. 7 92 213
27B-10-8, enacted ..... Sec. 8 92 213
27B-10-9, enacted ..... Sec. 9 92 213
27B-10-10, enacted Sec.10 92 213
27B-10-11, enacted Sec.11 92 213
27B-10-12, enacted Sec.12 92 213
27B-10-13, enacted Sec.13 92 213
PUBLIC WELFARE AND ASSISTANCE
28-1-82, amended ..... Sec. 2 94 217
28-1-83, amended ..... Sec. 3 94 217
28-1-84, amended ..... Sec. 4 94 217
28-6A-4 , repealed Sec.15 94 217
28-6A-5 , repealed Sec.16 94 217
28-6A-11 , repealed Sec.17 94 217
28-6B-2 , repealed Sec.18 94 217
28-12-1, amended ..... Sec. 5 94 217
UNIFORM PROBATE CODE
29A-5-304, amended ..... Sec. 1 95 222
29A-5-309, amended ..... Sec. 2 95 222
29A-5-403, amended ..... Sec. 3 95 222
29A-5-408, amended ..... Sec. 4 95 222
29A-5-427, enacted ..... Sec. 5 95 222
29A-5-428, enacted ..... Sec. 6 95 222
HIGHWAYS AND BRIDGES
31-26-25, amended ..... Sec. 1 96 225
31-26-26, amended ..... Sec. 2 96 225
31-26-26.1, enacted ..... Sec. 3 96 225
31-26-26.2, enacted ..... Sec. 4 96 225
31-34-4, amended ..... Sec. 1 97 226
31-34-6, amended ..... Sec. 2 97 226

MOTOR VEHICLES
32-1-8, enacted (effective March 14, 2023)..... Sec.10 98 227
32-3A-5.2, amended (effective March 14, 2023) ..... Sec. 1 98 227
32-5-107, amended ..... Sec. 1 99 230
32-5-127, amended (effective March 14, 2023) ..... Sec. 2 98 227
32-5-189, enacted ..... Sec. 2 99 230
32-5-190, enacted ..... Sec. 3 99 230
32-5-191, enacted ..... Sec. 4 99 230
32-5B-20, amended Sec.17 32 98
32-6B-1, amended ..... Sec. 1 100 231
32-6B-21.1, amended (effective March 14, 2023)..... Sec. 3 98 227
32-6B-58, amended ..... Sec. 4 100 231
32-6B-58.1, amended ..... Sec. 5 100 231
32-6B-58.2, enacted ..... Sec. 2 100 231
32-6B-58.3, enacted ..... Sec. 3 100 231
32-6B-61, amended ..... Sec. 6 100 231
32-6C-7.1, amended (effective March 14, 2023) ..... Sec. 4 98 227
32-7A-10.1, amended (effective March 14, 2023)..... Sec. 5 98 227
32-7B-10.1, amended (effective March 14, 2023)..... Sec. 6 98 227
32-9-3.1, amended (effective March 14, 2023) ..... Sec. 7 98 227
32-9-7, amended (effective March 14, 2023)..... Sec. 8 98 227
32-10-17, amended (effective March 14, 2023) ..... Sec. 9 98 227
32-12-15, amended ..... Sec. 1 101 235
32-12-17.15, amended ..... Sec. 1 102 236
32-12A-5.1, amended ..... Sec. 1 103 237
32-12A-8.1, amended ..... Sec. 2 103 237
32-12A-56, amended ..... Sec. 3 103 237
32-12A-57, amended ..... Sec. 4 103 237
32-13-1, amended Sec.36 3 20
32-14-15, amended ..... Sec. 1 104 237
32-14-15.1, enacted ..... Sec. 2 104 237
32-15-37, enacted ..... Sec. 1 105 238
32-15-38, enacted ..... Sec. 2 105 238
32-15-39, enacted ..... Sec. 3 105 238
32-23-4.5, amended ..... Sec. 1 106 239
32-23-4.6, amended ..... Sec. 1 107 240
32-23-4.7, amended ..... Sec. 2 107 240
32-23-4.9, amended ..... Sec. 3 107 240
32-23-4.9, amended Sec.97 82 172
MILITARY AFFAIRS
33-1-15, amended ..... Sec. 2 108 242
33-1-17.1, repealed ..... Sec. 4 108 242
33-1-17 , repealed ..... Sec. 3 108 242
33-1-18 , repealed ..... Sec. 5 108 242
33-1-19 , repealed ..... Sec. 6 108 242
33-4-19 , repealed ..... Sec. 3 109 244
33-6-5, amended ..... Sec. 1 110 251
33-6-5.1, amended ..... Sec. 2 110 251
33-6-5.2, amended ..... Sec. 3 110 251
33-6-5.3, amended ..... Sec. 4 110 251
33-6-5.4, enacted ..... Sec. 7 110 251
33-6-6, amended ..... Sec. 5 110 251
33-6-7, amended ..... Sec. 6 110 251
33-8-1 , repealed ..... Sec. 4 109 244
33-8-5 , repealed ..... Sec. 5 109 244
33-8-6 , repealed ..... Sec. 6 109 244

33-8-7 , repealed ..... Sec. 7 109 244
33-8-8 , repealed ..... Sec. 8 109 244
33-9-7, amended ..... Sec. 9 109 244
33-10-20, amended Sec.10 109 244
33-10-48, amended Sec.11 109 244
33-10-60, amended Sec.12 109 244
33-10-86, amended Sec.13 109 244
33-10-158, amended Sec.14 109 244
33-10-159, amended Sec.15 109 244
33-10-163, amended Sec.16 109 244
33-10-189, amended Sec.17 109 244
33-10-202, amended Sec.18 109 244
33-10-222, amended Sec.19 109 244
33-10-226, amended Sec.20 109 244
33-11-2, amended ..... Sec. 7 108 242
33-11-3, amended ..... Sec. 8 108 242
33-11-10, amended ..... Sec. 9 108 242
33-11A-2, amended Sec.10 108 242
33-12-1 , repealed Sec.21 109 244

VETERANS AFFAIRS

33A-1-3, amended ..... Sec. 1 111 253
33A-1-10, amended ..... Sec. 2 111 253
33A-1-11, amended ..... Sec. 3 111 253
33A-1-12, amended ..... Sec. 4 111 253
33A-1-16, amended ..... Sec. 5 111 253
33A-1-24, amended ..... Sec. 6 111 253
33A-1-28, amended ..... Sec. 7 111 253
33A-1-31, amended ..... Sec. 8 111 253
33A-1-32, amended ..... Sec. 1 112 259
33A-2-33, amended ..... Sec. 9 111 253
33A-4-1, amended Sec.10 111 253
33A-4-10 , repealed Sec.11 111 253
33A-4-11, amended Sec.12 111 253
33A-4-12, amended Sec.13 111 253
33A-4-13 , repealed Sec.14 111 253
33A-4-14 , repealed Sec.15 111 253
33A-4-15, amended Sec.16 111 253
33A-4-16, amended Sec.17 111 253
33A-4-17, amended Sec.18 111 253
33A-4-18, amended Sec.19 111 253
33A-4-19, amended Sec.20 111 253
33A-4-22, amended Sec.21 111 253
33A-4-23 , repealed Sec.22 111 253
33A-4-24, amended Sec.23 111 253
33A-4-26, amended Sec.24 111 253
33A-4-27, amended Sec.25 111 253
33A-4-28, amended Sec.26 111 253
33A-4-29, amended Sec.27 111 253
33A-4-30, amended Sec.28 111 253
33A-4-31, amended Sec.29 111 253
33A-4-32, amended Sec.30 111 253
33A-4-33, amended Sec.31 111 253
33A-4-34 , repealed Sec.32 111 253
33A-4-35, amended Sec.33 111 253
33A-4-36, amended Sec.34 111 253
33A-5-4, amended ..... Sec. 1 113 259
33A-5-4, amended ..... Sec. 1 114 260

33A-5-5, amended ..... Sec. 2 113 259
33A-5-5, amended Sec.35 111 253
PUBLIC HEALTH AND SAFETY
34-12D-2, amended ..... Sec. 1 115 261
34-12G-11, amended ..... Sec. 1 116 261
34-20A-2, amended ..... Sec. 1 117 262
34-20A-2, amended ..... Sec. 6 94 217
34-20A-2.2, enacted ..... Sec. 2 117 262
34-20A-18, amended ..... Sec. 7 94 217
34-20A-27, amended ..... Sec. 8 94 217
34-20A-34, amended ..... Sec. 9 94 217
34-20A-40 , repealed Sec.19 94 217
34-20A-44, amended Sec.10 94 217
34-20A-44.1, amended Sec.11 94 217
34-20A-51, amended Sec.12 94 217
34-20A-63, amended ..... Sec. 3 117 262
34-20A-66.1, amended Sec.13 94 217
34-20A-68, amended ..... Sec. 4 117 262
34-20A-69, amended ..... Sec. 5 117 262
34-20A-70, amended ..... Sec. 6 117 262
34-20A-70.2, amended ..... Sec. 7 117 262
34-20A-70.3, enacted ..... Sec. 8 117 262
34-20A-72, amended ..... Sec. 9 117 262
34-20A-73, amended Sec.10 117 262
34-20A-75, amended Sec.11 117 262
34-20A-89, amended Sec.14 94 217
34-20A-105.1, enacted ..... Sec. 1 118 266
34-20A-106, amended ..... Sec. 2 118 266
34-20B-1, amended (effective February 9, 2023) ..... Sec. 1 119 266
34-20B-1, amended Sec.98 82 172
34-20B-14, amended (effective February 9, 2023) ..... Sec. 2 119 266
34-20B-25, amended (effective February 9, 2023) ..... Sec. 3 119 266
34-20G-1, amended ..... Sec. 1 121 285
34-20G-1, amended ..... Sec. 1 120 281
34-20G-1, amended ..... Sec. 1 122 289
34-20G-5.1, enacted ..... Sec. 2 120 281
34-20G-26 , repealed ..... Sec. 2 122 289
34-20G-29, amended ..... Sec. 2 121 285
34-20G-72, amended ..... Sec. 3 122 289
34-20G-78, amended ..... Sec. 1 123 295
34-20G-78.1, enacted ..... Sec. 2 123 295
34-20G-89, amended (effective March 8, 2023) ..... Sec. 1 124 296
34-20G-92, amended ..... Sec. 1 125 296
34-20G-92.1, enacted ..... Sec. 2 125 296
34-20G-93, amended ..... Sec. 1 126 298
34-20G-93, amended ..... Sec. 3 125 296
34-24-33, enacted ..... Sec. 1 127 299
34-24-34, enacted ..... Sec. 2 127 299
34-24-35, enacted ..... Sec. 3 127 299
34-24-36, enacted ..... Sec. 4 127 299
34-24-37, enacted ..... Sec. 5 127 299
34-24-38, enacted ..... Sec. 6 127 299
34-25-16.4, amended ..... Sec. 2 83 202
34-26-75, amended ..... Sec. 1 128 300
34-26-75, amended ..... Sec. 1 129 302
34-26A-1, amended ..... Sec. 2 129 302

34-26A-2 , repealed Sec.33 129 302
34-26A-3, amended ..... Sec. 3 129 302
34-26A-4.1, enacted ..... Sec. 4 129 302
34-26A-4.2, enacted ..... Sec. 5 129 302
34-26A-4 , repealed Sec.34 129 302
34-26A-5.1, enacted ..... Sec. 6 129 302
34-26A-5 , repealed Sec.35 129 302
34-26A-6.1, enacted ..... Sec. 9 129 302
34-26A-6.2, enacted Sec.10 129 302
34-26A-6.3, enacted Sec.12 129 302
34-26A-6 , repealed Sec.36 129 302
34-26A-7, amended Sec.11 129 302
34-26A-8 , repealed Sec.37 129 302
34-26A-9.1, enacted ..... Sec. 7 129 302
34-26A-9 , repealed Sec.38 129 302
34-26A-10 , repealed Sec.39 129 302
34-26A-11 , repealed Sec.40 129 302
34-26A-12.1, enacted Sec.14 129 302
34-26A-12 , repealed Sec.41 129 302
34-26A-13.1, enacted ..... Sec. 8 129 302
34-26A-13 , repealed Sec.42 129 302
34-26A-14, amended Sec.16 129 302
34-26A-15 , repealed Sec.43 129 302
34-26A-16.1, enacted Sec.13 129 302
34-26A-16 , repealed Sec.44 129 302
34-26A-17 , repealed Sec.45 129 302
34-26A-18 , repealed Sec.46 129 302
34-26A-19, amended Sec.17 129 302
34-26A-20, amended Sec.18 129 302
34-26A-20.1, enacted Sec.15 129 302
34-26A-21.1, enacted Sec.19 129 302
34-26A-21 , repealed Sec.47 129 302
34-26A-22.1, enacted Sec.20 129 302
34-26A-22 , repealed Sec.48 129 302
34-26A-23.1, enacted Sec.21 129 302
34-26A-23.2, enacted Sec.22 129 302
34-26A-23 , repealed Sec.49 129 302
34-26A-24.1, enacted Sec.23 129 302
34-26A-24 , repealed Sec.50 129 302
34-26A-25.1, enacted Sec.24 129 302
34-26A-25 , repealed Sec.51 129 302
34-26A-26 , repealed Sec.52 129 302
34-26A-27 , repealed Sec.53 129 302
34-26A-28 , repealed Sec.54 129 302
34-26A-29 , repealed Sec.55 129 302
34-26A-30 , repealed Sec.56 129 302
34-26A-31, amended Sec.25 129 302
34-26A-32, amended Sec.26 129 302
34-26A-33, amended Sec.27 129 302
34-26A-34 , repealed Sec.57 129 302
34-26A-35, amended Sec.28 129 302
34-26A-36 , repealed Sec.58 129 302
34-26A-37, amended Sec.29 129 302
34-26A-38, amended Sec.30 129 302
34-26A-39 , repealed Sec.59 129 302
34-26A-40, amended Sec.32 129 302
34-26A-41 , repealed Sec.60 129 302

34-26A-42, enacted Sec.31 129 302
34-48A-6, amended Sec.37 3 20
34-50-1, amended ..... Sec. 1 130 318
ENVIRONMENTAL PROTECTION
34A-2-36.2, amended ..... Sec. 1 131 319
34A-2-36.3, enacted ..... Sec. 2 131 319
ALCOHOLIC BEVERAGES
35-2-6.1, amended Sec.20 62 139
35-4-14.1, amended ..... Sec. 1 132 320
PROFESSIONS AND OCCUPATIONS
36-1-2, amended Sec.22 109 244
36-1D-1, amended ..... Sec. 1 133 321
36-1D-2, amended ..... Sec. 2 133 321
36-1D-3, amended ..... Sec. 3 133 321
36-1D-4, amended ..... Sec. 4 133 321
36-2-16.1, enacted ..... Sec. 1 134 322
36-2-16.2, enacted ..... Sec. 2 134 322
36-2-16.3, enacted ..... Sec. 3 134 322
36-2-16.4, enacted ..... Sec. 4 134 322
36-2-16.5, enacted ..... Sec. 5 134 322
36-2-16.6, enacted ..... Sec. 6 134 322
36-2-16.7, enacted ..... Sec. 7 134 322
36-2-16 , repealed ..... Sec. 9 134 322
36-2-17, amended ..... Sec. 8 134 322
36-4B-18.2, enacted ..... Sec. 1 135 324
36-4B-18.3, enacted ..... Sec. 2 135 324
36-4B-35, amended ..... Sec. 3 135 324
36-10-18, amended ..... Sec. 1 136 325
36-10-18.1, amended ..... Sec. 2 136 325
36-10-18.2, repealed Sec.35 136 325
36-10-18.3, enacted ..... Sec. 3 136 325
36-10-18.4, enacted ..... Sec. 4 136 325
36-10-18.5, enacted ..... Sec. 5 136 325
36-10-18.6, enacted ..... Sec. 6 136 325
36-10-18.7, enacted ..... Sec. 7 136 325
36-10-18.8, enacted ..... Sec. 8 136 325
36-10-18.9, enacted ..... Sec. 9 136 325
36-10-19 , repealed Sec.36 136 325
36-10-21 , repealed Sec.37 136 325
36-10-25, amended Sec.10 136 325
36-10-27, amended Sec.11 136 325
36-10-27.1, amended Sec.12 136 325
36-10-29, amended Sec.13 136 325
36-10-30, amended Sec.14 136 325
36-10-31, amended Sec.15 136 325
36-10-32, amended Sec.16 136 325
36-10-33, amended Sec.17 136 325
36-10-35.1, amended Sec.18 136 325
36-10-35.2, amended Sec.19 136 325
36-10-35.8, amended Sec.20 136 325
36-10-36, amended Sec.21 136 325
36-10-38, amended Sec.22 136 325
36-10-39, amended Sec.23 136 325
36-10-40, amended Sec.24 136 325
36-10-41, amended Sec.25 136 325
36-10-43, amended Sec.26 136 325

36-10-45, amended Sec.27 136 325
36-10-46, amended Sec.28 136 325
36-10-47, amended Sec.29 136 325
36-10-48, amended Sec.30 136 325
36-10-49, amended Sec.31 136 325
36-10-51, amended Sec.32 136 325
36-10-52, amended Sec.33 136 325
36-10-53, enacted Sec.34 136 325
36-19-1, amended ..... Sec. 1 137 334
36-19-2, amended ..... Sec. 2 137 334
36-19-3 , repealed Sec.20 137 334
36-19-4 , repealed Sec.21 137 334
36-19-5 , repealed Sec.22 137 334
36-19-6, amended ..... Sec. 3 137 334
36-19-6.1, amended ..... Sec. 4 137 334
36-19-7, amended ..... Sec. 5 137 334
36-19-9, amended ..... Sec. 6 137 334
36-19-10 , repealed Sec.23 137 334
36-19-12, amended ..... Sec. 7 137 334
36-19-12.1, enacted ..... Sec. 8 137 334
36-19-13 , repealed Sec.24 137 334
36-19-14, amended ..... Sec. 9 137 334
36-19-17 , repealed Sec.25 137 334
36-19-18, amended Sec.10 137 334
36-19-20 , repealed Sec.26 137 334
36-19-21, amended Sec.11 137 334
36-19-22 , repealed Sec.27 137 334
36-19-23 , repealed Sec.28 137 334
36-19-24 , repealed Sec.29 137 334
36-19-25, amended Sec.12 137 334
36-19-25.1, repealed Sec.30 137 334
36-19-27, amended Sec.13 137 334
36-19-28 , repealed Sec.31 137 334
36-19-30, amended Sec.14 137 334
36-19-31, amended Sec.15 137 334
36-19-32, amended Sec.16 137 334
36-19-33 , repealed Sec.32 137 334
36-19-34 , repealed Sec.33 137 334
36-19-35 , repealed Sec.34 137 334
36-19-36, amended Sec.17 137 334
36-19-37, amended Sec.18 137 334
36-19-40 , repealed Sec.35 137 334
36-19-42 , repealed Sec.36 137 334
36-19-43 , repealed Sec.37 137 334
36-21A-1, amended ..... Sec. 1 138 343
36-21A-29, amended ..... Sec. 4 138 343
36-21A-33, amended ..... Sec. 2 138 343
36-21A-47, amended ..... Sec. 3 138 343
36-21A-89, amended ..... Sec. 5 138 343
36-31A-1, enacted ..... Sec. 1 139 347
36-31A-2, enacted ..... Sec. 2 139 347
36-31A-3, enacted ..... Sec. 3 139 347
36-31A-4, enacted ..... Sec. 4 139 347
36-31A-5, enacted ..... Sec. 5 139 347
36-31A-6, enacted ..... Sec. 6 139 347
36-31A-7, enacted ..... Sec. 7 139 347
36-31A-8, enacted ..... Sec. 8 139 347

36-31A-9, enacted ..... Sec. 9 139 347
36-31A-10, enacted Sec.10 139 347
36-31A-11, enacted Sec.11 139 347
36-31A-12, enacted Sec.12 139 347
36-31A-13, enacted Sec.13 139 347
36-31A-14, enacted Sec.14 139 347
36-31A-15, enacted Sec.15 139 347
36-34-13, amended ..... Sec. 1 140 365
36-34-13.2, amended ..... Sec. 2 140 365
36-34-13.3, amended ..... Sec. 3 140 365
36-34-13.6, enacted ..... Sec. 4 140 365
36-34-13.7, enacted ..... Sec. 5 140 365
36-34-13.8, enacted ..... Sec. 6 140 365
36-34-13.9, enacted ..... Sec. 7 140 365
36-34-18, amended ..... Sec. 8 140 365
36-34-19 , repealed ..... Sec. 9 140 365
36-34-20 , repealed Sec.10 140 365
36-37-1, amended ..... Sec. 1 141 369
36-37-2, amended ..... Sec. 2 141 369
36-37-4, amended ..... Sec. 3 141 369
36-37-6, amended ..... Sec. 4 141 369
36-37-7, amended ..... Sec. 5 141 369
36-37-8, amended ..... Sec. 6 141 369
36-37-9, amended ..... Sec. 7 141 369
36-37-10, amended ..... Sec. 8 141 369
36-37-14, amended ..... Sec. 9 141 369
36-37-15, amended Sec.10 141 369
36-37-17, amended Sec.11 141 369
36-37-18, amended Sec.12 141 369
36-37-18.1, enacted Sec.13 141 369
36-37-19, amended Sec.14 141 369
36-37-20, amended Sec.15 141 369
36-37-21, amended Sec.16 141 369
36-37-23, amended Sec.17 141 369
36-37-24, amended Sec.18 141 369
36-37-26, enacted Sec.19 141 369
TRADE REGULATION
37-7-2.1, amended ..... Sec. 1 142 377
AGRICULTURE AND HORTICULTURE
38-8-53, amended ..... Sec. 1 143 377
38-18-5, amended ..... Sec. 1 144 378
38-21-14, amended ..... Sec. 1 145 378
38-21-14, amended ..... Sec. 1 146 383
38-21-17.1, amended ..... Sec. 2 145 378
38-21-23.1, amended ..... Sec. 3 145 378
38-21-33.9, amended ..... Sec. 4 145 378
38-21-44, amended ..... Sec. 5 145 378
GAME, FISH, PARKS AND FORESTRY
41-6-68 , repealed ..... Sec. 2 147 386
41-12-9.1, repealed ..... Sec. 1 148 386
RECREATION AND SPORTS
42-7A-44.2, enacted ..... Sec. 2 132 320
PROPERTY
43-31-31 , repealed Sec.18 29 81
43-31-32 , repealed Sec.19 29 81
43-31-33 , repealed Sec.20 29 81

43-31-34 , repealed Sec.21 29 81
43-31-35 , repealed Sec.22 29 81
43-31-36 , repealed Sec.23 29 81
43-31-37 , repealed Sec.24 29 81
43-31-38 , repealed Sec.25 29 81
43-31-39 , repealed Sec.26 29 81
43-31-40 , repealed Sec.27 29 81
43-31-41 , repealed Sec.28 29 81

WATER MANAGEMENT

46A-1-2.1, amended (effective March 15, 2023) ..... Sec. 1 149 387
46A-1-7, amended Sec.38 3 20
46A-3A-7.1, amended ..... Sec. 1 150 390
46A-3D-4, amended ..... Sec. 1 151 390
46A-3E-14, amended ..... Sec. 2 150 390
46A-9-85, enacted ..... Sec. 1 152 391
46A-9-86, enacted ..... Sec. 2 152 391
46A-15-6, amended Sec.39 3 20
46A-18-36, amended ..... Sec. 1 153 392
46A-19-1 , repealed ..... Sec. 1 154 392
46A-19-2 , repealed ..... Sec. 2 154 392
46A-19-3 , repealed ..... Sec. 3 154 392
46A-19-4 , repealed ..... Sec. 4 154 392
46A-19-5 , repealed ..... Sec. 5 154 392
46A-19-6 , repealed ..... Sec. 6 154 392
46A-19-7 , repealed ..... Sec. 7 154 392
46A-19-8 , repealed ..... Sec. 8 154 392
46A-19-9 , repealed ..... Sec. 9 154 392
46A-19-10 , repealed Sec.10 154 392
46A-19-11 , repealed Sec.11 154 392
46A-19-16 , repealed Sec.12 154 392
46A-19-17 , repealed Sec.13 154 392

PUBLIC UTILITIES AND CARRIERS

49-1A-8, amended ..... Sec. 1 155 394
49-7A-2, amended ..... Sec. 1 156 395
49-28A-3, amended ..... Sec. 1 157 396
49-34B-1, amended ..... Sec. 1 158 397
49-34B-3, amended ..... Sec. 2 158 397
49-34B-4, amended ..... Sec. 3 158 397
49-34B-13, amended ..... Sec. 4 158 397
49-34B-14, amended ..... Sec. 5 158 397
49-34B-15, amended ..... Sec. 6 158 397
49-34B-19, amended ..... Sec. 7 158 397
49-34B-22, amended ..... Sec. 8 158 397

BANKS AND BANKING

51A-17-1, amended ..... Sec. 1 159 399
51A-17-2, amended ..... Sec. 2 159 399
51A-17-2.3, enacted ..... Sec. 3 159 399
51A-17-2.4, enacted ..... Sec. 4 159 399
51A-17-2.5, enacted ..... Sec. 5 159 399
51A-17-2.6, enacted ..... Sec. 6 159 399
51A-17-2.7, enacted ..... Sec. 7 159 399
51A-17-2.8, enacted ..... Sec. 8 159 399
51A-17-10, amended ..... Sec. 9 159 399
51A-17-10.1, enacted Sec.10 159 399
51A-17-10.2, enacted Sec.11 159 399
51A-17-10.3, enacted Sec.12 159 399
51A-17-22, amended Sec.13 159 399

51A-17-22.1, enacted Sec.14 159 399
51A-17-22.2, enacted Sec.15 159 399
51A-17-22.3, enacted Sec.16 159 399
CONTRACTS
53-9-11, amended ..... Sec. 1 160 407
53-9-11.1, amended ..... Sec. 2 160 407
53-9-11.2, enacted ..... Sec. 3 160 407
FIDUCIARIES AND TRUSTS
55-1-21.11, enacted ..... Sec. 2 161 410
55-1-32, amended ..... Sec. 3 161 410
55-1-33 , repealed ..... Sec. 4 161 410
55-1A-35.1, enacted ..... Sec. 5 161 410
55-1A-41, amended ..... Sec. 6 161 410
55-2-13, amended ..... Sec. 7 161 410
55-2-13.1, enacted ..... Sec. 8 161 410
55-2-24, enacted ..... Sec. 9 161 410
55-3-28, amended Sec.10 161 410
55-3-45, amended Sec.11 161 410
55-15-1, amended Sec.12 161 410
55-15-8, amended Sec.13 161 410
55-15-9, amended Sec.14 161 410
55-15-10, amended Sec.15 161 410
55-18-1, amended Sec.16 161 410
INSURANCE
58-1-27, amended ..... Sec. 1 162 422
58-1-30.1, enacted ..... Sec. 2 162 422
58-1-30.2, enacted ..... Sec. 3 162 422
58-1-30.3, enacted ..... Sec. 4 162 422
58-1-30.4, enacted ..... Sec. 5 162 422
58-3-12, amended ..... Sec. 1 163 425
58-6-13, amended ..... Sec. 1 164 426
58-17I-5 , repealed ..... Sec. 1 165 426
58-17I-6, amended ..... Sec. 2 165 426
58-29E-1, amended ..... Sec. 1 166 428
58-29E-2, amended ..... Sec. 2 166 428
58-29E-3, amended ..... Sec. 3 166 428
58-29E-4, amended ..... Sec. 4 166 428
58-29E-5, amended ..... Sec. 5 166 428
58-29E-6, amended ..... Sec. 6 166 428
58-29E-7, amended ..... Sec. 7 166 428
58-29E-7.1, enacted ..... Sec. 8 166 428
58-29E-8, amended ..... Sec. 9 166 428
58-29E-8.1, amended Sec.10 166 428
58-29E-10, amended Sec.11 166 428
58-29E-11 , repealed Sec.20 166 428
58-29E-12, amended Sec.12 166 428
58-29E-13, amended Sec.13 166 428
58-29E-16, enacted Sec.14 166 428
58-29E-17, enacted Sec.15 166 428
58-29E-18, enacted Sec.16 166 428
58-29E-19, enacted Sec.17 166 428
58-29E-20, enacted Sec.18 166 428
58-29E-21, enacted Sec.19 166 428
58-33-117, amended Sec.23 109 244
58-33-136, enacted ..... Sec. 1 167 437
58-33-137, enacted ..... Sec. 2 167 437

58-33-138, enacted ..... Sec. 3 167 437
58-33-139, enacted ..... Sec. 4 167 437
58-33-140, enacted ..... Sec. 5 167 437
58-33A-13, amended ..... Sec. 1 168 439
58-33A-16, amended ..... Sec. 2 168 439
58-33A-16.1, amended ..... Sec. 3 168 439
58-33A-16.7, amended ..... Sec. 4 168 439
AGENCY
59-11-24, amended ..... Sec. 1 169 442
59-11-24.1, amended ..... Sec. 2 169 442
59-11-24.2, enacted ..... Sec. 3 169 442
59-12-4.1, enacted ..... Sec. 1 170 443
REEMPLOYMENT ASSISTANCE
61-5-25, amended ..... Sec. 1 171 444
61-5-25.5, amended ..... Sec. 2 171 444
61-5-25.6, enacted ..... Sec. 3 171 444
61-5-28, amended ..... Sec. 4 171 444
61-5-28.1, amended ..... Sec. 5 171 444
61-5-29, amended ..... Sec. 6 171 444