

STATE-OWNED LANDS IN GENERAL

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[5-2-1. Acquisition of options for additional lands for institutions.](#)

If, in the judgment of the State Board of Regents or of a department head, it is deemed essential to the welfare of any state institution under their control to acquire additional lands for any such institution, the board or department head may, upon the written approval of the Governor, buy an optional right to purchase any such tract or tracts of lands. Every such option shall cover a period expiring not less than thirty days after adjournment of the next regular session of the Legislature.

Source: SL 1919, ch 28, § 1; SDC 1939, § 55.0202; SL 1989, ch 20, § 51.

5-2-2. Repealed by SL 1984, ch 34, § 4.

[5-2-2.1. Sale of realty by Board of Regents--Deposit, crediting, and investment of proceeds.](#)

The Board of Regents may sell extraneous real property subject to the provisions of the Constitution and approval of the Legislature.

The proceeds from a sale of institutional endowment lands shall be deposited as provided in chapter [5-3](#) and the proceeds of other extraneous real property, net of any costs associated with the sale of the land, including in the case of a sale comprising both endowment lands and other extraneous real property, costs allocable to the sale of endowment lands, shall be deposited with the state treasurer and credited to a fund specifically designated as the real property acquisition and capital improvement fund for each institution under the Board of Regents involved in such transaction. The proceeds shall be invested by the State Investment Council in accordance with chapter [4-5](#). Expenditures from the fund shall be approved by the Legislature.

Source: SL 1976, ch 7, § 1; SL 1982, ch 256, § 3; SL 1989, ch 20, § 52; SL 1989, ch 49, § 1; SL 1990, ch 30, § 18; SL 2011, ch 29, § 6; SL 2011, ch 30, § 5; SL 2018, ch 111, § 7, eff. Feb. 8, 2018.

[5-2-2.2](#). Minimum cash price--Method of sale--Time, notice, and conduct of auction--Conveyance.

The sale of real property pursuant to § [5-2-2.1](#) shall be made at not less than the full appraised value established by the commissioner of school and public lands, for cash at public auction or under the terms of an installment sale as provided pursuant to § [5-9-10](#). The public auction shall be held not less than five days after the last of at least two publications of notice of the sale were published in at least three daily newspapers of the state, which publications of notice shall disclose all details relative to the sale. All such sales shall be conducted by the commissioner of school and public lands. Conveyance shall be made in the name of the State of South Dakota acting through the board or department involved in the transaction and executed in the manner provided by § [5-2-11](#).

Source: SL 1976, ch 7, § 3; SL 1985, ch 36, § 1; SL 1989, ch 20, § 53.

[5-2-2.3](#). Use of proceeds and interest from sale.

Except for the proceeds from the sale of endowment lands, the net proceeds, and accumulated interest from sale of land under the Board of Regents pursuant to § [5-2-2.1](#) shall be used by the Board of Regents for acquisition of real and personal property or capital improvements subject to the approval of the Legislature. For purposes of this section, the definition of capital improvement contained in § [5-14-1](#) applies.

Source: SL 1976, ch 7, § 2; SL 1989, ch 20, § 54; SL 1989, ch 49, § 2; SL 1990, ch 30, § 19; SL 2011, ch 29, § 7; SL 2011, ch 30, § 6; SL 2018, ch 111, § 8, eff. Feb. 8, 2018.

[5-2-2.4](#). Lease of land by executive branch--Period of lease--Renewal--Amount.

The executive branch may lease land for a period not to exceed five years, subject to one renewal for an additional period not to exceed five years upon approval of the board or department involved in the lease. The lease shall be made for an amount established by appraisal by the commissioner of school and public lands.

Source: SL 1976, ch 7, § 4; SL 1989, ch 20, § 55.

[5-2-3](#). Exchange of state lands for federal lands in Indian reservations--Advertising and appraisal not required.

The State of South Dakota through its several departments, agencies, and institutions, and counties through their boards of county commissioners, may exchange with the approval of the appropriate department of the federal government tracts and sections of land belonging to the State of South Dakota for lands of like character in value belonging to the United States government on Indian reservations, and to execute proper conveyances thereof, in manner and form as provided by existing laws, but without the necessity of complying with any statute requiring advertising, notice, or appraisal, and to accept in return therefor a proper instrument of conveyance to the state of the lands for which such lands are exchanged.

Source: SL 1937, ch 215, § 2; SDC 1939, § 55.0206; SL 1984, ch 35, § 3.

[5-2-4](#). State ownership of lake and river beds declared--Riparian owners protected.

For the purposes of §§ [5-2-4](#) to [5-2-9](#), inclusive, the bed and channel of any lake or river in this state or bordering on this state to the middle of the main channel thereof, and all islands and sand bars lying therein shall be considered the property of the State of South Dakota unless this state or the United States has granted or conveyed an adverse legal or equitable interest therein. Nothing in said sections shall affect or impair the rights of riparian owners.

Source: SL 1921, ch 357, § 6; SDC 1939, § 15.0325.

[5-2-5. Contracts permitting taking of sand and gravel from state-owned lake and river beds--Exclusive privilege prohibited.](#)

Whenever any person shall desire to take from within or beneath the bed of any navigable river or lake or any other river or lake which is the property of the State of South Dakota any sand, gravel, or other material, he shall first enter into a contract with the commissioner upon such terms and conditions, and upon such terms of payment to the State of South Dakota as the commissioner of school and public lands may determine. No contract shall be made giving any person any exclusive privilege hereunder.

Source: SL 1921, ch 357, § 2; SDC 1939, § 15.0325.

[5-2-6. Proceeds of sand and gravel contracts--Payment--Deposit.](#)

All funds received by the state under contracts pursuant to § [5-2-5](#), shall be paid to the state treasurer under such rules as the commissioner of school and public lands shall promulgate pursuant to chapter [1-26](#). The state treasurer shall deposit the funds into the school fund of the state.

Source: SL 1921, ch 357, § 5; SDC 1939, § 15.0325; SL 1984, ch 34, § 5.

[5-2-7. Rules and conditions governing sand and gravel contracts.](#)

The commissioner of school and public lands is authorized and directed to make and publish all necessary and proper rules, terms, and conditions for the taking, purchasing, or selling of the materials and the products mentioned in § [5-2-5](#), and to make such changes from time to time, upon proper notice, as the rights of the state and interest of the public may require.

Source: SL 1921, ch 357, § 3; SDC 1939, § 15.0325.

[5-2-8. Unauthorized taking of materials from lake or river beds as misdemeanor.](#)

It is a Class 2 misdemeanor for any person to take from within or beneath the bed of any navigable river or lake or any other river or lake which is the property of the State of South Dakota any sand, gravel, or other material except in the manner provided by law.

Source: SL 1921, ch 357, §§ 1, 7; SDC 1939, § 15.9902; SL 1955, ch 41, ch 17, § 2; SL 1980, ch 24, § 64.

[5-2-9. Enforcement of state's right to materials from lake and river beds.](#)

It shall be the duty of the attorney general, or any state's attorney, on direction of the Governor, to commence any action necessary to protect the rights of the state under §§ [5-2-4](#) to [5-2-8](#), inclusive.

Source: SL 1921, ch 357, § 4; SDC 1939, § 15.0325.

[5-2-10. Public easements over state and county lands for conservation and parks--Grant of easements for electric, water, sewer, and fuel lines--Air rights.](#)

The State of South Dakota, through its several departments, agencies, and institutions, and counties through their boards of county commissioners, may grant perpetual easements on lands under their control, dedicating to the public

permanent use of the same in the use of water conservation projects or public parks, and may grant easements on or over such lands to any person, association, or corporation, granting the right to erect and maintain poles and wires for the purpose of conducting or transmitting electricity for lighting, heating, and power purposes. The Board of Regents and the executive branch may also grant easements for water, sewer, and fuel lines on land, or air rights over land, at the institutions under their control, which shall be executed pursuant to § [5-2-11](#).

Source: SL 1937, ch 215, § 1; SDC 1939, § 55.0205; SL 1947, ch 239; SL 1961, ch 266; SL 1967, ch 246; SL 1978, ch 41; SL 1989, ch 20, § 56; SL 1991, ch 47.

[5-2-11](#). Application for conveyance or easement on state-owned lands--Approval by Governor--Recording--Disposition of payments.

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 approved by him, such instruments shall 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 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.

Source: SL 1951, ch 86, §§ 3, 4; SDC Supp 1960, § 55.0207.

[5-2-11.1](#). Abandoned railroads on state property--Documentation by affidavit of commissioner.

In all cases in which an order, decree, or similar document entered by an authorized office or agency, providing for abandonment of any railroad, or portion thereof, has been recorded in the office of the register of deeds of any county through which such abandoned railroad, or portion thereof, extends, the commissioner of school and public lands shall prepare and execute an affidavit, or document certified as the official act of his office, as to each county through which such abandoned railroad, or portion thereof extends, in which the Department of School and Public Lands presently has, or previously had, since the establishment of such railroad, any right, title, or interest. The affidavit or other document shall describe each legal subdivision through which such railroad extends and the portion acquired for establishing the railroad.

Source: SL 1976, ch 55, § 1.

[5-2-11.2](#). Recording of affidavit.

The commissioner of school and public lands shall present the affidavit or other document pertaining to lands in the particular county to the register of deeds who shall record and index the same.

Source: SL 1976, ch 55, § 2.

[5-2-11.3](#). Previously recorded affidavits validated.

All recordations of affidavits or certified documents of the commissioner of school and public lands, as described in § [5-2-11.1](#), prior to July 1, 1976, are hereby ratified and declared valid for all purposes.

Source: SL 1976, ch 55, § 3.

[5-2-12](#). Mineral reservation in leases and conveyances of state land.

All sales, leases, and conveyances of lands belonging to the State of South Dakota or to which it may now or hereafter be entitled, including all common school, public buildings, and endowment lands, shall be subject to and contain a

reservation to the State of South Dakota of all deposits of coal, ores, metals, and other minerals, asphaltum, oil, gas, geothermal resources, and other like substance in such lands, together with the right to prospect for, mine, and remove the same upon rendering compensation to the owner or lessee for all damages that may be caused by such prospecting or removal. The reserved deposits shall be disposed of only in the manner expressly provided by law.

Source: SL 1919, ch 308, § 1; SDC 1939, § 55.0203; SL 1980, ch 40, § 1.

5-2-13. Disposition of proceeds from sale or lease of reserved minerals.

All money and proceeds derived from the sale or lease of the property and rights reserved by and under the provisions of S.D. Const., Art. VIII, § 19, shall inure to the benefit of the funds for which said lands are held by the state or any of its departments.

Source: SL 1919, ch 308, § 1; SDC 1939, § 55.0203; SL 1984, ch 34, § 6.

5-2-14. Conveyance or exchange of reserved minerals with United States--Appraisal.

When any board, commission, or department of the state having control of any lands belonging to the state, shall in its judgment be satisfied that it is meet and proper to convey to or exchange with the United States of America or any of its departments any mineral rights now held by it or heretofore reserved to it, they shall so declare by proper resolution and direct the necessary instrument of conveyance to be executed upon the payment of the consideration to be determined by a board of appraisers comprised of the commissioner of school and public lands, the state geologist and the state auditor. Said conveyance shall be executed by the Governor and attested by the secretary of state.

Source: SL 1957, ch 320, §§ 1, 2; SDC Supp 1960, § 55.0208.

5-2-15. Assignment to inferior lien holders of mortgages and sheriffs' certificates held by state--School fund mortgages.

All mortgages and sheriffs' certificates of sale in the name of the State of South Dakota shall be assignable to any person holding an inferior lien or having any other bona fide interest in the land covered by such mortgage or certificate whenever it shall appear to be to the best interest of the state to make such assignment and upon full payment of the principal and interest payable under such mortgages or certificates and the authority and power is hereby given to any board or commission having charge of any such liens to execute such assignments by and with the approval of the Governor endorsed thereon.

No such mortgage shall be assigned unless the conditions thereof have been broken. No school fund mortgage shall be assigned without approval of the board of county commissioners of the county wherein the real estate affected by such mortgage is situated.

Source: SL 1925, ch 223, § 1; SDC 1939, § 55.0204.

5-2-16. Assignment by county commissioners of sheriffs' certificates in school loan mortgages.

Sheriffs' certificates of sale issued in foreclosures of school loan mortgages shall be assignable by the resolution of the board of county commissioners of the county wherein the real estate affected thereby is located, without the approval of the Governor or commissioner of school and public lands. Assignments of such sheriffs' certificates of sale shall be executed by the chairman of the board and attested by the county auditor.

Source: SL 1925, ch 223, § 2; SDC 1939, § 55.0204.

5-2-17. Land sales within federal irrigation projects to conform to federal limitations.

No lands belonging to the state within areas to be irrigated from works constructed or controlled by the United States, or its duly authorized agencies, shall be sold except in conformity with the classification of farm units by the United States, and the title to such lands shall not pass from the state until the applicant therefor shall have fully complied with the

provisions of the laws of the United States and the regulations thereunder concerning the acquisition of the right to use water from such works, and shall produce the evidence thereof duly issued. After the withdrawal of lands by the United States for any irrigation project, no application for the purchase of state lands within the limits of such withdrawal shall be accepted except upon the conditions prescribed in this section.

Source: SL 1907, ch 180, § 59; RC 1919, § 8258; SDC 1939, § 61.0148; SL 1955, ch 430, § 1; SDC Supp 1960, § 61.0134.

5-2-18. Relocation benefits and assistance in acquisition of property--Compliance with federal act.

The State of South Dakota, its departments, agencies, instrumentalities, or any political subdivisions may provide relocation benefits and assistance to persons, businesses, and farm operations displaced as the result of the acquisition of land or rehabilitation or demolition of structures in connection with federally assisted projects to the same extent and for the same purposes as provided for in the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P. L. 91-646) as amended by Surface Transportation and Uniform Relocation Assistance Act of 1987 (P. L. 100-17), and may comply with all the acquisition policies contained in said federal act.

Source: SL 1972, ch 136; SL 1988, ch 48, § 1.

5-2-19. Review process of property given to state.

Any real property given to the State of South Dakota shall undergo a review process. The Bureau of Finance and Management shall prepare a fiscal note showing the cost to state government of the gift. Any gift in which the cost to state government exceeds one thousand dollars in any one year requires legislative approval. The Bureau of Finance and Management shall annually report to the Legislature by the first day of the legislative session the gifts received by the state and their costs.

Source: SL 1992, ch 12, § 2.

5-2-20. Transfer of state's interest in Camp Lakodia to 4-H Foundation.

The Governor shall execute a quitclaim deed and release of reversionary interest, which shall be attested by the commissioner of school and public lands, to transfer all the state's reversionary rights in the property, commonly known as Camp Lakodia, located at Lot Two (2) of Croisants Subdivision of Lot Four (4) of Section Fifteen (15), Township One Hundred Six (106), Range Fifty-three (53), West of the Fifth Principal Meridian, Lake County, South Dakota (Contains 15 acres, more or less) to the South Dakota 4-H Foundation, Inc.

Source: SL 2002, ch 30, § 1.