

# State of South Dakota

EIGHTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2011

946S0344

## SENATE JUDICIARY ENGROSSED NO. **SB 101** - 2/3/2011

**This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.**

Introduced by: Senators Novstrup (Al), Brown, Buhl, Haverly, Holien, Krebs, Peters, Rhoden, Sutton, and Tieszen and Representatives Hoffman, Cronin, Feickert, Hansen (Jon), Hawley, Hubbel, Hunt, Nelson (Stace), Olson (Betty), Solum, Steele, Verchio, and Wick

1 FOR AN ACT ENTITLED, An Act to provide a penalty for denying access to public records.

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

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

5 If the office of hearing examiners enters a decision pursuant to § 1-27-40 concluding that  
6 certain records shall be released or that the fee charged pursuant to §§ 1-27-35 and 1-27-36 was  
7 excessive, the public entity has thirty days after the opinion is issued to comply with the order  
8 or to file an appeal pursuant to § 1-27-41.

9 Section 2. That chapter 1-27 be amended by adding thereto a NEW SECTION to read as  
10 follows:

11 In a civil action filed pursuant to § 1-27-38 or upon an appeal filed pursuant to § 1-27-41,  
12 if the court determines that the public entity acted unreasonably and in bad faith the court may  
13 award costs, disbursements, and a civil penalty not to exceed fifty dollars for each day that the



- 1 record or records were delayed through the fault of the public entity. Any civil penalty collected
- 2 pursuant to this section shall be deposited into the state general fund.