# Meeting Minutes ELECTRICAL COMMISSION

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Or Calling 1 605.679.7263 Meeting ID 1166854753 Passcode 138173921
January 13, 2022 8:30 A.M. CST

President Lyons called the meeting to order at 8:30 a.m. JJ Linn, Executive Director called the roll.

Members Present: Sean Lyons, Doug Fuerst, John Hoffman, Tor Sorlien and Russ Vanderwerff.

**Others Present:** JJ Linn – Executive Director, Roxie Mobley – Office Secretary, and Graham Oey – Legal Counsel.

The meeting agenda was presented. President Lyons requested additions or comments on the agenda. President Lyons declared the agenda correct as amended.

The July 20, 2021 Commission minutes were presented. President Lyons declared the minutes correct as presented as no comments were received from members.

President Lyons opened the floor to public input. No comments were received.

Inspectors report:

President Lyons requested Director Linn to conduct an inspector update.

- Stan Rogers and Scott Ochsner have resigned.
- An inspector was hired in the Yankton area and resigned in the first week.
- Inspector salaries have been increased in addition to the amount recommended by the legislature and approved in FY 2021. The increases ranged from 17-48%. It is important for the Commission to offer competitive salaries for hiring and the retaining of personnel. Director Linn will continue to attempt to make improvements regarding inspector salaries.
- Joel Hanson has been hired in the Sioux Falls area.
- The Aberdeen district has not been filled and the Commission has not received any qualified applicants for this location. The range of the offering salary has been increased depending on experience. Additional job openings have been posted in multiple areas across the state.

#### Old Business:

President Lyons stated there is no old business on the agenda.

#### **New Business:**

None.

#### Reports:

The reports for July 2021 to December 2021 were reviewed.

#### Code Committee Report:

No pending items at this time.

#### President's Report:

No pending items at this time.

#### **Executive Director's Report:**

- Director Linn noted the Commission is not current on billing installers for permits that have been finaled due to COVID, the loss of a 42-year employee, and the hiring of two new staff of which all occurred close to or during renewal and an inspection fee increase. The Commission has been diligent to inform licensees multiple times of the delay in billing. Roxie stated we are almost caught up.
- Director Linn informed the members the Commission has started the preliminary process of updating the licensure/permit database. Director Linn will update the Commission on progress and estimated timeline for completion once they have been established.
- Director Linn informed the members the Commission will email license cards starting immediately. The issuance of plastic cards will be discontinued.
- Director Linn informed the members of the change in documentation of continuing education by the Commission: The Commission is no longer keeping track of your continuing education hours. Licensees are required to retain their copies of certificates of completion. The licensee will check a box at renewal stating they have attained the required continuing education to renew. Any licensee may be picked for an audit in the future. Failure to provide the appropriate documentation during the audit may result in disciplinary action. (Disciplinary action includes a fine; suspension, revocation, refusal to issue of a license; or limit the scope of practice.) Starting with the biannual ending 6/30/2022 the commission will request the certificates be submitted when a licensee applies for the next level of licensure. Documentation prior to the 6/30/22 biannual will be kept on file at the Commission (classes remitted to the commission and taken prior to 6/30/20).
- Director Linn stated the Commission office will be moving to 217 W. Missouri Ave, Pierre in February.
- Director Linn reviewed HB 1062. The members instructed Director Linn to monitor HB 1062. If
  HB 1062 passes, the members unanimously instructed Director Linn to provide the members
  options to eliminate a homeowner's ability to utilize the exemption for a lot zoned commercial if
  the issue is not addressed in the updated law or current administrative rule. Oey stated at first
  glance at the bill and current law/rule it does not appear a homeowner would be able to utilize
  the exemption for a lot in an area with a commercial zoning. Oey also stated the Commission
  would be able to pass a rule on the matter if they felt it was needed.

President Lyons noted the next Commission meeting is tentatively scheduled for April 21, 2022.

President Lyons requested comments from the members:

None noted at this time.

Sorlien made a motion to adjourn the Commission meeting. Hoffman seconded the motion. A roll call vote was held. **MOTION PASSED.** (Fuerst-aye, Hoffman-aye, Sorlien-aye, Vanderwerff-aye, Lyons-aye).

Meeting adjourned at 10:27 a.m.

36-1C-15 36-1C-16

## CHAPTER 36-1C UNIFORM COMPLAINT AND DECLARATORY RULING PROCEDURES

Definitions. 36-1C-1 36-1C-2 Complaints--Jurisdiction. 36-1C-3 Receipt of complaint--Time to respond--Failure to respond. 36-1C-4 Investigation--Dismissal permitted. 36-1C-5 Option to authorize limited administrative fines for specified violations. Informal disposition--Notice. 36-1C-6 36-1C-7 Formal complaint. Response to formal complaint. 36-1C-8 36-1C-9 Notice of hearing. <u>36-1C-10</u> Appearance required of applicant or licensee. 36-1C-11 Board or commission member disqualified. 36-1C-12 Written waiver of procedures. 36-1C-13 Promulgation of rules. 36-1C-14

#### 36-1C-1. Definitions.

Terms used in this chapter mean:

Action on petition.

Petition for declaratory ruling.

Appeal of declaratory ruling.

- "Administrator," the executive director, executive secretary, or other person designated as being (1) responsible for a professional or occupational licensing's board, commission, or agency operation;
- "Agency," a professional or occupational licensing board, commission, or agency set forth in title 36;
- "Complaint," an allegation of a violation of the laws or rules of a professional or occupational licensing board, commission, or agency set forth in title 36;
- "Investigative committee," one or more persons employed or contracted by a professional or (4) occupational licensing board, commission, or agency set forth in title 36 to review and investigate complaints;
- "License," any certification, license, permit, or other authorization related to the practice of any (5)profession or occupation regulated under title 36.

Source: SL 2021, ch 168, § 1.

# <u>36-1C-2</u>. Complaints--Jurisdiction.

Any person claiming that a licensee or an applicant for a license under title 36 has engaged in or is engaging in conduct constituting grounds for disciplinary action, as enumerated in the laws or rules of the agency, may file with the agency a written complaint. The agency shall require the complaining party to file a complaint stating the name of the applicant or licensee against whom the complaint is made and setting out, in full detail, the conduct that is alleged to be in violation and may prescribe the form on which a written complaint is made.

The administrator shall request the complainant provide additional information if the complaint does not state a claim within the jurisdiction of the agency.

Failure of the complainant to comply with this section is basis for the administrator to reject the complaint without further action.

**Source:** SL 2021, ch 168, § 2.

#### <u>36-1C-3</u>. Receipt of complaint-Time to respond-Failure to respond.

Upon receipt of a properly submitted complaint within the agency's jurisdiction, the administrator shall serve a copy of the complaint by mail or electronic mail upon the applicant or licensee complained against.

The applicant or licensee complained against shall send a response to the complaint to the administrator of the agency within twenty business days after service of the complaint on the applicant or licensee. Upon receipt of the response of the applicant or licensee, or upon expiration of the time for the applicant or licensee complained against to respond, the administrator shall assign an investigative committee to determine if the complaint has probable cause and constitutes grounds for disciplinary action or lacks probable cause and should be dismissed.

The twenty business days may be extended by the administrator for good cause.

Failure to respond to the complaint is grounds for disciplinary action.

Source: SL 2021, ch 168, § 3.

# <u>36-1C-4</u>. Investigation—Dismissal permitted.

Upon completion of the investigation, the investigating committee shall recommend to the agency whether the complaint should be dismissed for lack of probable cause, resolved by informal disposition, or settled by a formal hearing. The failure of an applicant or licensee to comply with the investigation is grounds for denial of the application or disciplinary action.

An agency may allow the investigative committee to dismiss a complaint. Any dismissal by the investigative committee must be reported to the agency at its next scheduled meeting or within thirty days, whichever is shorter.

An investigative committee includes the agency's legal counsel.

**Source:** SL 2021, ch 168, § 4.

# <u>36-1C-5</u>. Option to authorize limited administrative fines for specified violations.

The agency may authorize the administrator to impose an administrative fine upon proof of a violation of specified statutes or rules without additional prior approval. Any action taken pursuant to this section shall be reported to the agency at its next scheduled meeting or within thirty days, whichever is shorter.

Any administrative fine issued under this section may be appealed by requesting a contested case under chapter 1-26. Notice of appeal must be submitted to the administrator within twenty calendar days of service of the fine.

Any fine issued under this section may not exceed five hundred dollars.

**Source:** SL 2021, ch 168, § 5.

#### 36-1C-6. Informal disposition-Notice.

The agency may accept an informal disposition regarding a violation of the laws or rules under the agency's jurisdiction. The agreed upon disposition must be in writing and is subject to the approval of the agency.

Failure to comply with the terms of an informal disposition is grounds for disciplinary action or allows the agency to institute or reinstitute formal proceedings.

The administrator shall notify, in writing, any complaining party of the results of the informal disposition of a complaint and the action taken, if any.

**Source:** SL 2021, ch 168, § 6.

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# 36-1C-7. Formal complaint.

If an alleged violation has probable cause constituting grounds for disciplinary action, the legal counsel for the agency may commence formal proceedings by serving a formal complaint by mail or electronic mail upon the applicant or licensee complained against.

The formal complaint must include the name of the applicant or licensee complained against, and a statement of facts setting forth the nature of the violations being charged that constitute grounds for disciplinary action.

**Source:** SL 2021, ch 168, § 7.

# 36-1C-8. Response to formal complaint.

The applicant or licensee shall file an answer with the administrator within twenty calendar days after service of the complaint admitting, denying, qualifying, or explaining all facts alleged in the formal complaint and all defenses of the applicant or licensee or mitigating factors.

Source: SL 2021, ch 168, § 8.

# <u>36-1C-9</u>. Notice of hearing.

After the receipt of the response in  $\S 36-1C-8$ , the agency's counsel shall file a notice of hearing pursuant to  $\S 1-26-17$ . The notice of hearing must be served no later than twenty calendar days prior to the hearing date.

The agency may continue the date of the hearing as necessary. The agency's counsel shall serve notice of any new date by electronic mail to the applicant or licensee's address on file with the agency. If the applicant or licensee does not have electronic mail, communication shall be sent to the mailing address on file with the agency.

Source: SL 2021, ch 168, § 9.

# <u>36-1C-10</u>. Appearance required of applicant or licensee.

The applicant or licensee appearing before the agency at a formal hearing shall appear in person unless otherwise waived by the agency. If an applicant or licensee fails to appear, the hearing may proceed without the applicant or licensee.

Source: SL 2021, ch 168, § 10.

#### 36-1C-11. Board or commission member disqualified.

If an alleged violation against an applicant or licensee is filed by a member of the agency's board or commission, or if a member of the agency's board or commission participates in the investigation of a violation by an applicant or licensee, that agency's board or commission member is disqualified from participating in the final decision rendered by the agency board or commission.

**Source:** SL 2021, ch 168, § 11.

#### 36-1C-12. Written waiver of procedures.

An applicant for a license or licensee may, in writing, waive any procedure granted to the applicant or licensee under this chapter.

Notwithstanding any other provision of law, nothing in this chapter shall be construed to limit an agency's authority for emergency action under § 1-26-29.

**Source:** SL 2021, ch 168, § 12.

# <u>36-1C-13</u>. Promulgation of rules.

The Departments of Agriculture and Natural Resources, Health, Labor and Regulation, and Social Services shall promulgate rules, pursuant to chapter 1-26, to make any consistent addition to the procedures in this chapter in order to comply with any federal statutes, rules, and regulations regarding a profession or occupation within their respective department.

Source: SL 2021, ch 168, § 13; SL 2021, ch 1, § 14.

## 36-1C-14. Petition for declaratory ruling.

A person seeking a ruling as to the applicability to that person of a law, rule, or order of an agency under title 36 may file with the agency a petition for declaratory ruling in substantially the following form:

Pursuant to the provisions of SDCL <u>1-26-15</u>, I, (name of petitioner), of (address of petitioner), am (title or capacity of petitioner), and do hereby petition the professional or occupational board or commission of (state name of body) for its declaratory ruling in regard to the following:

- (1) The statutes or rules or order in question is: (here identify and quote the pertinent statute, rule, or order.):
- (2) The facts and circumstances that give rise to the issue to be answered by the professional or occupational board or commission's declaratory ruling:
- (3) The precise issue to be answered by the professional or occupational board or commission's declaratory ruling:

Dated at (city and state), this \_\_\_\_\_, day of \_\_\_\_\_, \_\_\_\_.

(Signature of Petitioner)

Source: SL 2021, ch 168, § 14.

# 36-1C-15. Action on petition.

Upon receipt of the petition, the administrator may request from the petitioner any information that may be required for the issuance of its ruling. At the agency's next regularly scheduled meeting following the receipt of the petition or following receipt of requested information, or within ninety days, whichever is shorter, the agency shall issue its declaratory ruling and serve a copy of it by mail or electronic mail upon the petitioner.

**Source:** SL 2021, ch 168, § 15.

#### 36-1C-16. Appeal of declaratory ruling.

Any person seeking a declaratory ruling hereunder, is considered aggrieved if, within thirty days of the agency's declaratory ruling, a request is made for the agency to conduct a formal hearing. The hearing must be held at the earliest convenience of the agency following the receipt of the request. A hearing under this section is a contested case under chapter 1-26.

**Source:** SL 2021, ch 168, § 16.

# **Election of Officers**

36-16-7. Officers of commission--Expenses of members. The members of the State Electrical Commission shall select from their members a president and a secretary/treasurer. Each member of the commission except as provided in § 36-16-4 shall receive travel expenses pursuant to § 3-9-2 when actively engaged in the discharge of the member's duties.

Source: SL 1963, ch 216, § 4 (1); SL 1986, ch 27, § 29; SL 1994, ch 301, § 1.

Sean Lyons elected President July 21, 2016

John Hoffman elected Secretary/Treasurer July 13, 2017

Minutes from 7/20/21 meeting regarding election of Officers:

President Lyons announced nominations are now in order for the office of President. Eide nominated Sean Lyons; Seconded by Cronin. President Lyons requested additional nominations. Hearing none, President Lyons declared Sean Lyons elected to the position of President by acclamation. President Lyons announced nominations are now in order for the office of Secretary/Treasurer. Member Eide nominated John Hoffman; Seconded by Cronin. President Lyons requested additional nominations. Hearing none, President Lyons declared John Hoffman elected to the position of Secretary/Treasurer by acclamation.

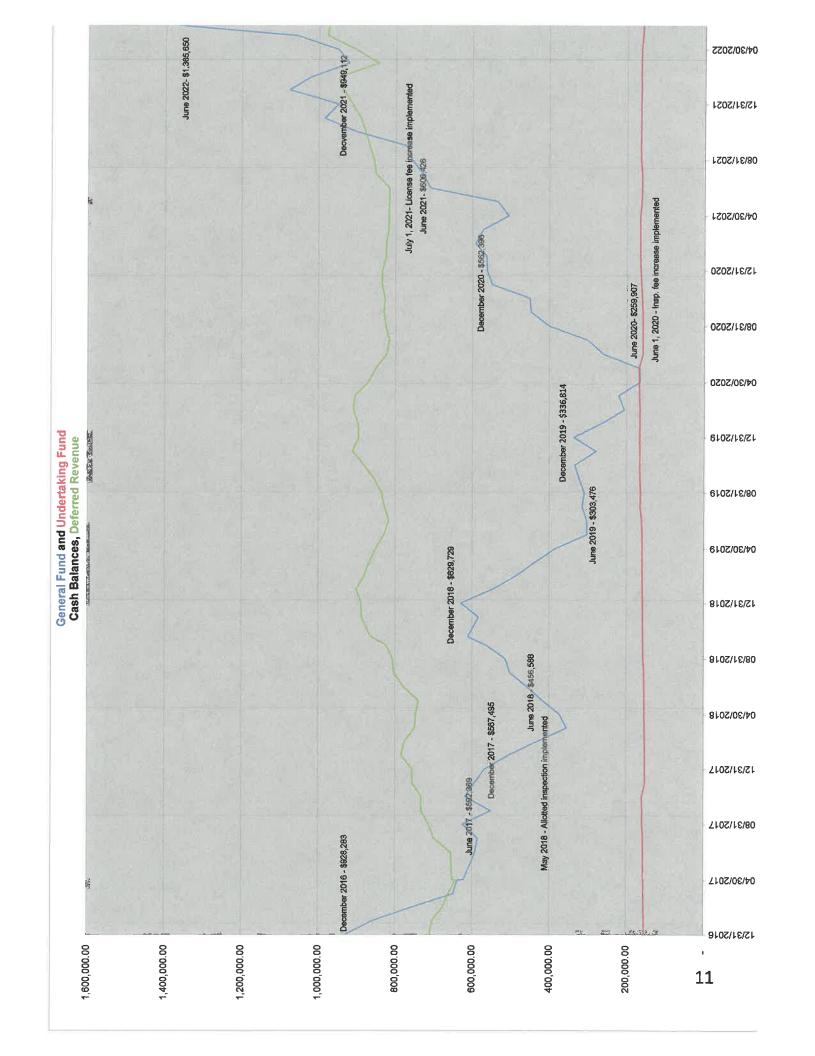
SD Electrical Commission GL Budget Performance Revenue 07/01/2021 to 6/30/22

Description	Budget	Actual	Remaining	Percent
Permits - ECs & CBEs	150,000.00	154,429.00	4,429.00	102.95%
Permit - HO	14,000.00	13,090.00	(910.00)	93.50%
Permit - Form B	25,000.00	30,675.00	5,675.00	122.70%
El License	1,800.00	4,440.00	2,640.00	246.67%
EC License	170,000.00	162,600.00	(7,400.00)	95.65%
CBE License	2,000.00	1,320.00	(680.00)	66.00%
JM License	117,000.00	124,540.00	7,540.00	106.44%
AE License	27,820.00	32,645.00	4,825.00	117.34%
IEC License	12,000.00	9,190.00	(2,810.00)	76.58%
ICBE License	480.00	240.00	(240.00)	50.00%
IJM License	6,500.00	4,400.00	(2,100.00)	67.69%
EC Reciprocal License	10,000.00	6,240.00	(3,760.00)	62.40%
JM Reciprocal License	6,500.00	7,430.96	930.96	114.32%
Maintenance License	1,000.00	920.00	(80.00)	92.00%
Exam Fees	17,000.00	25,469.54	8,469.54	149.82%
Re-exam Fees	2,000.00	2,680.00	680.00	134.00%
Undertaking Fees	5,000.00	4,850.00	(150.00)	97.00%
Inspection Fees	1,460,000.00	1,616,286.44	156,286.44	110.70%
Re-inspection Fees	125,000.00	200,303.50	75,303.50	160.24%
501 (d) License Fees	800.00	560.00	(240.00)	70.00%
Administrative Fees	30,000.00	62,968.00	32,968.00	209.89%
Re-instatement Fees	-	400.00	400.00	
Misc. Income	100.00	30.10	(69.90)	30.10%
Non-operating Revenue Interest	20,000.00	9,247.26	(10,752.74)	46.24%
	2,204,000.00	2,474,954.80	270,954.80	112.29%

# SD Electrical Commission GL Budget Performance Expense 07/01/2021 to 6/30/22

	07/01/2021 (0	0/30/22				
Description	Budget	Actual	Remaining	Percent		
Employee Salaries	*4 *** ***	0000 470 70	07.404.00			
FT Employee Salaries	\$1,007,298.00	\$920,173.78	87,124.22	91.35%		
PT Employee Salaries	\$140,721.00	\$72,907.76	67,813.24	51.81%		
Commission Members Meeting Fee	\$643.00	\$300.00	343.00	46.66%		
Subtotal	\$1,148,662.00	\$993,381.54	155,280.46	86.48%		
Employee Benefits (Employer's Share)						
OASI	\$96,021.00	\$74,347.82	21,673.18	77.43%		
Retirement	\$70,424.00	\$54,978.55	15,445.45	78.07%		
Health Insurance	\$210,718.00	\$137,051.72	73,666.28	65.04%		
Worker's Compensation	\$2,465.00	\$2,246.25	218.75	91.13%		
Unemployment	\$1,174.00	\$89.49	1,084.51	7.62%		
Subtotal	\$380,802.00	\$268,713.83	112,088.17	70.57%		
Personal Services	\$1,529,464.00	\$1,262,095.37	267,368.63	82.52%		
Travel			•			
Auto-State Owned in State	\$260,803.00	\$208,046.97	52,756.03	79,77%		
Auto Priv Low rate	\$2,000.00	\$355.58	1,644.42	17.78%		
Auto Priv High rate	\$2,000.00	\$761.88	1,238.12	38.09%		
Air Travel	\$0.00	\$0.00	No			
Lodging in State	\$16,247.00	\$14,421.46	1,825.54	88.76%		
Incidental Travel in State	\$0.00	\$0.00	-			
Meals Taxable in State	\$48,710.00	\$33,120.74	15,589.26	68.00%		
Meals Non Taxable in State	\$6,200.00	\$6,909.50	(709.50)	111.44%		
Auto-Out of State - Low Miles	\$1,000.00	\$0.00	1,000.00	0.00%		
Auto-Out of State - High Miles	\$1,000.00	\$0.00	1,000.00	0.00%		
Air-Comm out of State	\$4,500.00	\$446.34	4,053.66	9.92%		
Lodging out of State	\$5,300.00	\$416.91	4,883.09	7.87%		
Incidental Travel out of State	\$400.00	\$409.57	(9.57)	102.39%		
Meals Non Taxable out of State	\$800.00	\$150.00	650.00	18.75%		
Subtotal	\$348,960.00	\$265,038.95	83,921.05	75.95%		
Contractual Services						
Subscriptions	\$400.00	\$489.96	(89.96)	122.49%		
Dues & Membership Fees	\$4,500.00	\$2,980.00	1,520.00	66.22%		
Workshop Registration Fees	\$5,300.00	\$1,595.00	3,705.00	30.09%		
BIT-Computer Services	\$46,750.00	\$43,846.25	2,903.75	93.79%		
BIT-Development Costs	\$25,319.00	\$3,066.44	22,252.56	12.11%		
Central Services - Records Management	\$30,828.00	\$33,677.92	(2,849.92)	109.24%		
Equipment Maintenance	\$1,500.00	\$500.14	999.86	33.34%		
Janitorial Services	\$1,583.00	\$1,315.37	267.63	83.09%		
Audit Services	\$0.00	\$0.00	-			
Computer Software Maintenance	\$100.00	\$192.78	(92.78)	192.78%		
Advertising	\$1,000.00	\$692.64	307.36	69.26%		
Rent - Private	\$12,000.00	\$15,401.33	(3,401.33)	128.34%		
Rent - other	\$1,000.00	\$292.82	707.18	29.28%		
Telecommunication Services	\$25,726.00	\$17,805.35	7,920.65	69.21%		
Garbage	\$100.00	\$121.86	(21.86)	121.86%		
Ins Premiums & Surety Bonds	\$2,195.00	\$5,505.29	(3,310.29)	250.81%		
Bank Fee & Charges	\$0.00	\$5,324.11	(5,324.11)			
Other Contractual Services	\$1,650.00	\$6,607.37	(4,957.37)	400.45%		
Subtotal	\$159,951.00	\$139,414.63	\$20,536.37	87.16%		
				-		

Supplies & Materials				
Office Supplies	\$6,300.00	\$7,336.43	(1,036.43)	116.45%
Office Supplies	\$4,000.00	\$1,929.52	2,070.48	48.24%
Printing-State	\$2,000.00	\$400.76	1,599.24	20.04%
Printing-commercial	\$14,000.00	\$17,340.70	(3,340.70)	123.86%
Postage	\$15,900.00	\$8,746.08	7,153.92	55.01%
Clothing	\$1,500.00	\$346.25	1,153.75	23.08%
Procurement Card Purchase	\$2,000.00	\$0.00	2,000.00	0.00%
Subtotal	\$45,700.00	\$36,099.74	9,600.26	78.99%
Office Equipment	\$200.00	\$196.48	3.52	98.24%
Office Furniture	\$0.00	\$31,105.62	(31,105.62)	#DIV/0!
Telephone Equipment	\$300.00	\$400.00	(100.00)	133.33%
Computer Hardware	\$5,272.00	\$27,939.59	(22,667.59)	529.96%
Computer Software	\$128.00	\$0.00	128.00	0.00%
Refund of Prior Year Revenue	\$100.00	\$306.00	(206.00)	306.00%
Operating Trans Out (DLR)	\$70,000.00	\$59,189.95	10,810.05	84.56%
Subtotal	\$76,000.00	\$119,137.64	-\$43,137.64	156.76%
Operating Subtotal	\$630,611.00	\$559,690.96	\$70,920.04	88.75%
Total	\$2,160,075.00	\$1,821,786.33	\$338,288.67	84.34%
Total Revenues Over/(Under) Expenses	\$ 43,925.00	\$ 653,168.47	\$ 609,243.47	-1487.01%



# **South Dakota Electrical Commission**

# Inspectors Statistics 07/01/2021 and 06/30/2022

	Inspector	BD	Permits	Transfers	Finals	ED	RI	DT	Other	Total Contacts
00	Stan Rogers	709	271	(760)	(220)	- April - Apri	112	4	51	167
00	Administration	-		89	(89)	-	2	137	2,210	2,349
1	Brent Schoulte	659	766	(427)	(525)	473	285	20	2,067	2,372
2	John Smallbrock	and the control to the second	101	698	(101)	698	45	7	107	159
3	Kyle Dahl	701	638	126	(689)	776	499	21	1,417	1,937
4	Ron Lunder	-	133	458	(155)	436	105	-	50	155
5	Jason Wingert	837	780	(382)	(634)	601	601	8	1,828	2,437
6	Seth Warner	- nation communicative feed decomp	38	496	(43)	491	7	-	131	138
8	Thad Stoddard	678	598	131	(706)	701	398	6	612	1,016
9	Dan Urban	523	740	107	(584)	786	542	62	3,722	4,326
10	Joel Hanson	-	198	679	(261)	616	221	9	167	397
11	Scott Ochsner	948	764	(339)	(732)	641	701	9	2,418	3,128
12	Dan Schoenfelder	703	697	(200)	(521)	679	520	13	1,734	2,267
13	Aaron Dimitt	585	699	(114)	(441)	729	304	13	1,982	2,299
14	Jeff Hotchkiss	581	619	5	(558)	647	223	7	1,059	1,289
15	Dan Larson	327	340	(256)	(411)		135	18	545	698
17	Tom Kelly	235	314	(12)	(274)	263	262	- Actual Committee of Actual Committee of Co	186	448
21	Doug Brende	500	647	(74)	(356)	717	555	-	1,712	2,267
22	Curtis Mitchell	495	805	(165)	(707)	428	502	2	738	1,242
24	Tim Heairet	811	749	(60)	(607)	893	437	12	2,213	2,662
	Totals:	9,292	9,897	JACO JANOHANAN NA 18 1 MAGTAN PAGAMANA. Mila	(8,614)	10,575	6,456	348	24,949	31,753