

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

769I0268

HOUSE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **HB 1080** - 02/04/2003

Introduced by: Representatives Klaudt, Lintz, McCaulley, and Rhoden and Senators de Hueck, Duniphan, and Jaspers

1 FOR AN ACT ENTITLED, An Act to revise the publication of advertisements for bids.

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

3 Section 1. That § 5-18-3 be amended to read as follows:

4 5-18-3. If the governing body of any public corporation intends to enter into a contract for
5 the construction of a new building or the remodeling or addition to an existing building which
6 involves the expenditure of fifty thousand dollars or more, a contract for any other public
7 improvement which involves the expenditure of twenty-five thousand dollars or more, or a
8 contract for the purchase of materials, supplies, or equipment which involves the expenditure of
9 fifteen thousand dollars or more, the governing body of the public corporation shall advertise for
10 bids for the project. The advertisement shall appear as a legal notice in the appointed legal
11 newspaper. The advertisement shall be printed at least twice, with the first publication at least
12 ten days before opening of bids. The first publication shall be in the official newspaper or
13 newspapers of the contracting corporation, and the second publication may be in any legal
14 newspaper of the state chosen by the contracting corporation. If the contracting corporation has
15 no official newspaper, the first publication shall be made in a legal newspaper with general



1 circulation in the district, to be selected by the contracting corporation. The advertisement shall
2 state the time and place where the bids will be opened and passed upon by the board. In all
3 notices, the board shall reserve the right to reject any or all bids. If a public corporation lists a
4 bid on the centralized bid exchange pursuant to § 5-18-1.1, the public corporation need not make
5 the second publication required by this section.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

409I0372

HOUSE ENGROSSED NO. **HB 1121** - 02/07/2003

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

Introduced by: Representatives Olson (Mel), Cutler, Gillespie, Hennies, Hunhoff, Madsen, McCoy, Peterson (Bill), Schafer, and Sebert and Senators Olson (Ed), Diedrich (Larry), Duniphan, Moore, and Sutton (Dan)

1 FOR AN ACT ENTITLED, An Act to clarify certain restrictions concerning sex discrimination
2 in certain employment matters.

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

4 Section 1. That chapter 20-13 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Nothing in this chapter prevents a school district from considering the sex of an employee
7 in relation to employment duties in a locker room or toilet facility used only by members of one
8 sex.



State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

626I0622

SENATE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **SB 116** - 02/19/2003

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

Introduced by: Senators McCracken and Knudson and Representatives Peterson (Bill) and Wick

1 FOR AN ACT ENTITLED, An Act to provide certain provisions regarding the tax on certain
2 telecommunication services.

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

4 Section 1. That chapter 10-45 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 In the case of a bundled transaction of telecommunications services, if the charges are
7 attributable to services that are taxable and services that are nontaxable, the portion of the price
8 attributable to the nontaxable services shall be subject to tax unless the provider can reasonably
9 identify such portion from its books and records kept in the regular course of business for other
10 purposes.



State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

732I0645

SENATE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **SB 153** - 02/19/2003

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

Introduced by: Senators Bogue, de Hueck, Dempster, Dennert, Diedrich (Larry), Duniphan, Duxbury, Ham, Jaspers, Kelly, Knudson, Kooistra, LaPointe, McCracken, Napoli, and Vitter and Representatives Rhoden, Christensen, Cutler, Davis, Garnos, Haverly, Kraus, Lange, LaRue, McLaughlin, Miles, Schafer, Sebert, Solum, and Weems

1 FOR AN ACT ENTITLED, An Act to require the publication of certain information related to
2 public notices.

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

4 Section 1. That chapter 17-2 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Any publication required to be published by any public corporation or political subdivision
7 in a legal newspaper shall bear an inscription listing the newspaper and the approximate cost of
8 publication of the notice, report, ordinance, resolution, or any other required publication. The
9 style of the inscription shall be as follows: "This required notice was published by
10 _____ (inserting name of newspaper) at the cost of _____ (inserting cost of
11 the required publication) taxpayer dollars." The newspaper shall provide this information and
12 publish the same at no charge to the public corporation or political subdivision.



State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

74110658

SENATE AGRICULTURE AND NATURAL RESOURCES COMMITTEE ENGROSSED NO. **SB 163** - 02/13/2003

Introduced by: Senators Symens and Diedrich (Larry) and Representatives Peterson (Jim),
Pederson (Gordon), and Putnam

1 FOR AN ACT ENTITLED, An Act to require that certain biodiesel fuel blends be available for
2 sale.

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

4 Section 1. That § 10-47B-3 be amended by adding thereto a NEW SUBDIVISION to read
5 as follows:

6 "Biodiesel blend," a blended special fuel containing a minimum of two percent by volume of
7 biodiesel. Biodiesel means a renewable, biodegradable, mono alkyl ester combustible liquid fuel
8 that is derived from agricultural plant oils or animal fats and that meets American Society For
9 Testing and Materials Specification D 6751-02 for Biodiesel Fuel (B100) Blend Stock for
10 Distillate Fuels.

11 Section 2. Beginning on July 1, 2005, the end seller in this state shall also offer a biodiesel
12 blend containing at least two percent by volume of biodiesel.



State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

743I0576

SENATE TAXATION COMMITTEE ENGROSSED NO.

SB 188 - 02/19/2003

Introduced by: Senators Diedrich (Larry), Abdallah, Brown, Duxbury, Jaspers, McCracken, Moore, Olson (Ed), Schoenbeck, Sutton (Duane), and Symens and Representatives Dykstra, Begalka, Burg, Hargens, Konold, Peterson (Jim), Sebert, Solum, and Williamson

1 FOR AN ACT ENTITLED, An Act to provide a credit against certain taxes paid by railroads
2 for the replacement and repair of rail lines.

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

4 Section 1. That chapter 10-28 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Any publicly operated railroad or railway corporation operating over rail lines located within
7 this state may claim a credit against the tax levied on such rail lines for amounts that the railroad
8 or railway corporation has certified as having been expended in the replacement and repair of
9 such rail lines. Only those expenses of a capital nature may be certified as an expense eligible for
10 a credit pursuant to this section. The certification required by this section shall be on forms
11 provided by the Department of Revenue. The labor and material expenses certified pursuant to
12 this section shall be itemized separately. The credit provided in this section shall be applied
13 proportionally across the railroad's entire mainline within this state. The credit shall be applied
14 to tax liability over a three-year period in an amount equal to thirty-three and one-third percent



1 the first year following certification; thirty-three and one-third percent of such an amount shall
2 carry forward into the second year following certification; and thirty-three and one-third percent
3 shall carry forward into the third year following certification. Each year's carryover shall be
4 accumulated as a tax credit with other years' annual tax credits. No credit may be given for the
5 repair or replacement of railway line necessitated by washout, fire, or train derailment. If any rail
6 line goes over ten million gross ton miles per mile annually in a calendar year, the rail line may
7 not receive a credit pursuant to this section in the following calendar year.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

292I0666

SENATE HEALTH AND HUMAN SERVICES

COMMITTEE ENGROSSED NO. **SB 192** - 02/19/2003

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

Introduced by: Senator Reedy and Representatives Nesselhuf and Schafer

1 FOR AN ACT ENTITLED, An Act to allow local units of government to regulate the sale,
2 distribution, and use of tobacco products.

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

4 Section 1. That § 10-50-64 be amended to read as follows:

5 10-50-64. ~~The Legislature is the exclusive regulator of all matters relating to the use of~~
6 ~~tobacco products.~~ The provisions of this chapter are the minimum standards relating to the
7 distribution, marketing, promotion, and sale of tobacco products. Any municipality, for the area
8 within the municipal boundaries, and any county, for the area outside of any municipal
9 boundaries, may provide, by ordinance, for regulations relating to the use, distribution,
10 marketing, promotion, and sale of tobacco products that are more restrictive than those provided
11 for by this chapter. Nothing prohibits a person or a public entity from voluntarily regulating the
12 use of tobacco products on the person's or entity's property.

13 Section 2. That § 34-46-6 be amended to read as follows:

14 34-46-6. Enforcement of this chapter shall be implemented ~~in an equitable and uniform~~
15 ~~manner throughout the state~~ so as to ensure the eligibility for and receipt of any federal funds or



1 grants that the state now receives or may receive relating to the provisions of this chapter. For
2 ~~the purposes of equitable and uniform regulation and implementation, the Legislature through~~
3 ~~this chapter is the exclusive regulator of all matters relating to the distribution, marketing,~~
4 ~~promotion, and sale of tobacco products. The provisions of this chapter are the minimum~~
5 ~~standards relating to the distribution, marketing, promotion, and sale of tobacco products. Any~~
6 ~~municipality, for the area within the municipal boundaries, and any county, for the area outside~~
7 ~~of any municipal boundaries, may provide, by ordinance, for regulations relating to the use,~~
8 ~~distribution, marketing, promotion, and sale of tobacco products that are more restrictive than~~
9 ~~those provided for by this chapter.~~

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

400I0759

SENATE JUDICIARY COMMITTEE ENGROSSED NO. **SB 202** - 02/19/2003

Introduced by: The Committee on State Affairs at the request of the Governor

1 FOR AN ACT ENTITLED, An Act to revise certain provisions to comply with the requirements
2 of the Juvenile Justice and Delinquency Act.

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

4 Section 1. That § 26-7A-1 be amended to read as follows:

5 26-7A-1. Terms used in this chapter and in chapters 26-8A, 26-8B, and 26-8C mean:

- 6 (1) "Abused or neglected child," a child as defined in § 26-8A-2;
- 7 (2) "Adjudicatory hearing," a hearing to determine whether the allegations of a petition
8 alleging that a child is abused or neglected are supported by clear and convincing
9 evidence or whether the allegations of a petition alleging a child to be in need of
10 supervision or a delinquent are supported by evidence beyond a reasonable doubt;
- 11 (3) "Adult," a person eighteen years of age or over, except any person under twenty-one
12 years of age who is under the continuing jurisdiction of the court or who is before the
13 court for an alleged delinquent act committed before the person's eighteenth birthday;
- 14 (4) "Advisory hearing," the initial hearing conducted by the court to inform the child and
15 the child's parents, guardian, custodian, or other interested parties of their statutory



- 1 and constitutional rights;
- 2 (5) "Association," an association, institution, or corporation which includes in its
3 purposes the care or disposition of children coming within the provisions of this
4 chapter or chapter 26-8A, 26-8B, or 26-8C;
- 5 (6) "Child," a person less than eighteen years of age and any person under twenty-one
6 years of age who is under the continuing jurisdiction of the court or who is before the
7 court for an alleged delinquent act committed before the person's eighteenth birthday;
- 8 (7) "Child in need of supervision," a child as defined in § 26-8B-2;
- 9 (8) "Commit," to transfer custody of a person;
- 10 (9) "Conservator," a conservator of a child as defined in § 29A-1-201;
- 11 (10) "Court" or "juvenile court," the circuit court;
- 12 (11) "Custodian," any foster parent, employee of a public or private residential home or
13 facility, other person legally responsible for a child's welfare in a residential setting,
14 or person providing in-home or out-of-home care; for purposes of this definition,
15 out-of-home care means any day care as defined in §§ 26-6-14, 26-6-14.1, and
16 26-6-14.8;
- 17 (12) "Delinquent child," a child as defined in § 26-8C-2;
- 18 (13) "Department of Social Services" or "department," the South Dakota Department of
19 Social Services;
- 20 (14) "Deprivation of custody," transfer of custody of a child by the court from the child's
21 parents, guardian, or other custodian to another person, agency, department, or
22 institution;
- 23 (15) "Detention," the temporary custody of a child in secured physically restricting
24 facilities for children, sight and sound separated from adult prisoners;

- 1 (16) "Detention facility," a secured, physically-restricting facility ~~where~~ designed, staffed,
2 and operated for children ~~are physically~~ and separated by sight and sound from adult
3 prisoners or a facility for children in the same building or secure perimeter as an adult
4 jail or lockup, where children are sight and sound separated from adult prisoners,
5 where staff in the detention facility are trained and certified by the entity operating
6 facility to work with children, and the facility had been approved as a collocated
7 facility by the Office of Juvenile Justice and Delinquency Prevention;
- 8 (17) "Dispositional hearing," a hearing after adjudication at which the court makes an
9 interim or final decision in the case;
- 10 (18) "Guardian," a guardian of a child as defined in § 29A-1-201;
- 11 (19) "Guardian ad litem," a representative of a child as defined in subdivision 15-6-17(c),
12 including a court-appointed special advocate for a child;
- 13 (20) "Intake officer," a judge of a circuit court or the court's designee who may not be a
14 court services officer, law enforcement officer, or prosecuting attorney. For purposes
15 of chapters 26-7A, 26-8A, 26-8B, and 26-8C, intake officers may administer oaths
16 or affirmations as provided by chapter 18-3;
- 17 (21) "Minor," a person who has not reached his or her eighteenth birthday;
- 18 (22) "Parents," biological or adoptive parents of a child, including either parent, any single
19 or surviving parent, and any custodial or noncustodial parent, jointly or severally;
- 20 (23) "Protective supervision," a legal status created by court order under which an alleged
21 or adjudicated abused or neglected child is permitted to remain in the home of the
22 child's parents, guardian, or custodian or is placed with a relative or other suitable
23 person and supervision and assistance is provided by the court, Department of Social
24 Services, or another agency designated by the court;

1 (24) "Qualified mental health professional," a person as defined in § 27A-1-3;

2 (25) "Shelter," a physically-unrestricting home or facility for temporary care of a child;

3 (26) "Temporary care," the care given to a child in temporary custody;

4 (27) "Temporary custody," the physical and legal control of a child prior to final
5 disposition.

6 Section 2. That § 26-7A-23 be amended to read as follows:

7 26-7A-23. A board of county commissioners may provide and maintain at public expense
8 temporary care, shelter, or detention facilities, ~~physically~~ sight and sound separated from adult
9 prisoners, where children coming within the provisions of this chapter or chapter 26-8A, 26-8B,
10 26-8C, or §§ 26-11A-13 and 26-11A-14, may, if necessary or appropriate, be placed for
11 temporary care, temporary custody, shelter, or detention as designated by the court, or
12 temporary detention or shelter by the Department of Corrections. Sections 26-11A-19 and
13 26-7A-94 governs the costs of custodial care of children.

14 Section 3. That § 26-7A-26 be amended to read as follows:

15 26-7A-26. No apparent, alleged, or adjudicated abused or neglected child may be securely
16 detained at any time in a jail, lockup, or in any type of detention or temporary care facility
17 containing adult prisoners. An apparent, alleged, or adjudicated child in need of supervision may
18 not be securely detained in a jail, lockup, or in any type of detention or temporary care facility
19 containing adult prisoners except for approved collocated detention centers as defined in § 26-
20 7A-1 and as authorized in §§ 26-8B-3, 26-8B-6, and 26-7A-20.

21 ~~An apparent, or alleged, or adjudicated child in need of supervision or an apparent, alleged,~~
22 ~~or adjudicated delinquent child fourteen years of age or older may be held in detention in an adult~~
23 ~~lockup or jail if physically separated from adult prisoners subject to any restrictions under this~~
24 ~~chapter or chapter 26-8A, 26-8B, or 26-8C.~~

1 ~~An apparent, alleged, or adjudicated child in need of supervision or an apparent, alleged, or~~
2 ~~adjudicated~~ delinquent child may be held in an adult lockup or jail for up to six hours for
3 purposes of identification, processing, interrogation, transfer to juvenile facility, or release to
4 parents if the child is physically sight and sound separated from adult prisoners.

5 In any area not designated as a metropolitan statistical area by the United States Bureau of
6 the Census, an apparent or alleged delinquent child may be held in an adult lockup or jail for up
7 to forty-eight hours excluding holidays and weekends or until the temporary custody hearing,
8 whichever is earlier, if the facility has been certified by the Department of Corrections as
9 providing sight and sound separation of juveniles from adults and if no suitable juvenile facility
10 is available.

11 A child who has been transferred to adult court pursuant to § 26-11-4 or a child who is being
12 tried in circuit court as an adult pursuant to § 26-11-3.1 may be held ~~in detention~~ in an adult
13 lockup or jail if physically separated from adult prisoners.

14 A child who has attained the age of majority who is under the continuing jurisdiction of the
15 court may be held ~~in detention~~ in an adult jail or lockup.

16 A child under the age of eighteen years who has been transferred to adult court pursuant to
17 § 26-11-3.1 or 26-11-4 and who has been convicted of a felony as an adult may be held ~~in~~
18 ~~detention~~ in an adult jail or lockup.

19 Section 4. That § 26-8B-2 be amended to read as follows:

20 26-8B-2. In this chapter and chapter 26-7A, the term, child in need of supervision, means:

- 21 (1) Any child of compulsory school age who is habitually absent from school without
22 legal excuse;
- 23 (2) Any child who has run away from home or is otherwise beyond the control of the
24 child's parent, guardian, or custodian;

1 (3) Any child whose behavior or condition endangers the child's own welfare or the
2 welfare of others; ~~or~~

3 (4) Any child who has violated any federal, state, or local law or regulation for which
4 there is not a penalty of a criminal nature for an adult, except violations of subdivision
5 34-46-2(2), or petty offenses; or

6 (5) Any child who has violated § 35-9-2.

7 Section 5. That § 26-8B-3 be amended to read as follows:

8 26-8B-3. An apparent or alleged child in need of supervision taken into temporary custody
9 by a law enforcement officer prior to a temporary custody hearing shall be released to the child's
10 parents, guardian, or custodian unless the parents, guardian, or custodian cannot be located or
11 in the judgment of the intake officer are not suitable to receive the child, in which case the child
12 shall be placed in shelter. A child may be placed in detention for no more than twenty-four hours,
13 excluding Saturdays, Sundays, and court holidays, if the intake officer finds that the parents,
14 guardian, or custodian are not available or are not suitable to receive the child, and finds at least
15 one of the following circumstances exists:

- 16 (1) The child has failed to comply with court services or a court-ordered program;
- 17 (2) The child is being held for another jurisdiction as a parole or probation violator, as a
18 runaway or as a person under court-ordered detention;
- 19 (3) The child has a demonstrated propensity to run away from the child's home, from
20 court-ordered placement outside of the child's home or from agencies charged with
21 providing temporary care for the child;
- 22 (4) The child is under court-ordered home detention in this jurisdiction; or
- 23 (5) There are specific, articulated circumstances which justify the detention for the
24 protection of the child from potentially immediate harm to the child or to others.

1 The shelter or detention authorized shall be the least restrictive alternative available. The
2 child may be held in detention up to an additional twenty-four hours following the temporary
3 custody hearing pending transfer to shelter or release.

4 If the child is accused of or has been found in violation of a valid court order, the child may
5 be placed in detention for more than twenty-four hours, if a temporary custody hearing, pursuant
6 to § 26-7A-14, is held within twenty-four hours of the child being placed in a detention facility,
7 an interview is conducted with the child, and a written assessment of the child's immediate needs
8 is provided at the temporary custody hearing. The interview and assessment may be conducted
9 by law enforcement, states attorney, court services, or other public employee. The child may not
10 be held in detention greater than seventy-two hours unless revocation proceedings have been
11 initiated.

12 If the child is being held for another jurisdiction as a parole or probation violator, as runaway
13 or as a person under court-ordered detention, the child may be placed in detention for more than
14 twenty-four hours, and up to seven days, if a temporary custody hearing, pursuant to
15 § 26-7A-14, is held within twenty-four hours of the child being placed in a detention facility.

16 Section 6. That § 26-8B-6 be amended to read as follows:

17 26-8B-6. If a child has been adjudicated as a child in need of supervision, the court shall enter
18 a decree of disposition according to the least restrictive alternative available in keeping with the
19 best interests of the child. The decree shall contain one or more of the following alternatives:

- 20 (1) The court may place the child on probation or under protective supervision in the
21 custody of one or both parents, guardian, custodian, relative, or another suitable
22 person under conditions imposed by the court;
- 23 (2) The court may require as a condition of probation that the child report for assignment
24 to a supervised work program, provided the child is not placed in a detention facility

1 and is not deprived of the schooling that is appropriate to the child's age, needs, and
2 specific rehabilitative goals. The supervised work program shall be of a constructive
3 nature designed to promote rehabilitation, shall be appropriate to the age level and
4 physical ability of the child and shall be combined with counseling by a court services
5 officer or other guidance personnel. The supervised work program assignment shall
6 be made for a period of time consistent with the child's best interests, but may not
7 exceed ninety days;

8 (3) If the court finds that the child has violated a valid court order, the court may place
9 the child in a detention facility, for purposes of disposition if:

10 (a) The child is not deprived of the schooling that is appropriate for the child's age,
11 needs, and specific rehabilitative goals;

12 (b) The child had a due process hearing before the order was issued;

13 (c) ~~Before the issuance of such order, a local interagency team, authorized~~
14 ~~pursuant to § 27A-15-56 shall review the behavior of the child and the~~
15 ~~circumstances under which such child was brought before the court and made~~
16 ~~subject to such order; determine the reasons for the behavior that caused such~~
17 ~~child to be brought before the court and made subject to such order; determine~~
18 ~~that all dispositions, including treatment, other than placement in a detention~~
19 ~~facility or the Department of Corrections, have been exhausted or are clearly~~
20 ~~inappropriate; and submit to the court a written report stating the results of the~~
21 ~~review and determinations made~~ A plan of disposition from a court services
22 officer is provided to the court;

23 (4) The court may require the child to pay for any damage done to property or for
24 medical expenses under conditions set by the court if payment can be enforced

- 1 without serious hardship or injustice to the child;
- 2 (5) The court may commit the child to the Department of Corrections for placement in
3 a juvenile correctional facility, foster home, group home, group care center, or
4 residential treatment center pursuant to chapter 26-11A. Prior to placement in a
5 juvenile correctional facility, an interagency team comprised of representatives from
6 the Department of Human Services, Department of Social Services, Department of
7 Education and Cultural Affairs, ~~and the Department of Corrections,~~ and the Unified
8 Judicial System shall make a written finding that placement at a Department of
9 Corrections facility is the least restrictive placement commensurate with the best
10 interests of the child. Subsequent placement in any other Department of Corrections
11 facility may be authorized without an interagency review;
- 12 (6) The court may place a child in an alternative educational program;
- 13 (7) The court may order the child to be examined and treated at the Human Services
14 Center;
- 15 (8) The court may impose a fine not to exceed five hundred dollars;
- 16 (9) The court may order the suspension or revocation of the child's driving privilege or
17 restrict the privilege in such manner as it sees fit or as required by § 32-12-52.4;
- 18 (10) The court may assess or charge the same costs and fees as permitted by §§ 16-2-41,
19 23-3-52, 23A-27-26, and 23A-27-27 against the child, parent, guardian, custodian,
20 or other party responsible for the child.

21 No adjudicated child in need of supervision may be incarcerated in a detention facility except
22 as provided in subdivision (3) or (5) of this section.

23 Section 7. That § 26-8C-2 be amended to read as follows:

24 26-8C-2. In this chapter and chapter 26-7A, the term, delinquent child, means any child ten

1 years of age or older who, regardless of where the violation occurred, has violated any federal,
2 state, or local law or regulation for which there is a penalty of a criminal nature for an adult,
3 except state or municipal hunting, fishing, boating, park, or traffic laws that are classified as
4 misdemeanors, or petty offenses or any violation of § 35-9-2.

5 Section 8. That § 26-11-1 be amended to read as follows:

6 26-11-1. If any child under the age of eighteen years is arrested, with or without a warrant,
7 for a violation of any law or municipal ordinance for which the child is not subject to proceedings
8 as a child in need of supervision as defined in § 26-8B-2 or a delinquent child as defined in
9 § 26-8C-2 or for a violation of subdivision 34-46-2(2), the child shall be brought before the
10 judge of a court having jurisdiction over the offense and proceedings shall be conducted as
11 though the child were eighteen years of age or older.

12 A child under the age of eighteen years, subject to proceedings pursuant to this section and
13 accused of a Class 2 misdemeanor, may be held in or sentenced to ~~an adult lockup or jail~~ or a
14 detention or temporary care facility for up to seven days if physically sight and sound separated
15 from adult prisoners. No child may be held in or sentenced to a detention facility for a violation
16 of subdivision 34-46-2(2).

17 A child under the age of eighteen years, subject to proceedings pursuant to this section and
18 accused of a Class 1 misdemeanor, may be held in or sentenced to ~~an adult lockup or jail~~ or a
19 detention or temporary care facility for up to thirty days if physically sight and sound separated
20 from adult prisoners.

21 Section 9. That § 24-11-1 be amended to read as follows:

22 24-11-1. The ~~word "jail"~~ term, jail, as used in this chapter includes any building or place
23 provided or used by any county, municipality, or civil township for the detention of adult persons
24 convicted or accused of the violation of any law of this state, any ordinance or bylaw of any

1 municipality; or civil township, or any rule or regulation of any board, commission, or public
2 officer having the effect of law; or for the detention of adult persons held as witnesses or
3 committed for contempts, except juvenile detention facilities located outside jails and lockups
4 and approved collocated detention facilities operated by counties. The governing body or
5 commission responsible for the operation of a jail shall classify its jails based upon the types of
6 persons detained therein and the maximum length of detention of persons in such jails.

7 Section 10. That § 24-11-16 be amended to read as follows:

8 24-11-16. The sheriff or other officer having charge of any jail shall keep jail records. These
9 records shall be carefully kept and preserved and delivered to such officer's successor in office.
10 ~~Such~~ The officer shall exhibit these records to any judge of the circuit court ~~when, if~~ requested
11 to do so, and to the Department of Corrections for the purposes on monitoring compliance with
12 the requirements of the Juvenile Justice and Delinquency Prevention Act pursuant to § 1-15-28.

13 Section 11. That § 32-12-52.4 be amended to read as follows:

14 32-12-52.4. Upon a first conviction or a first adjudication ~~of delinquency~~ as a child in need
15 of supervision for a violation of § 35-9-2 while in a motor vehicle, the court shall suspend the
16 driver license or driving privilege of any driver of a vehicle who was under the age of twenty-one
17 when the offense occurred, for a period of six months.

18 Upon a second or subsequent conviction or a second or subsequent adjudication ~~of~~
19 ~~delinquency~~ as a child in need of supervision for a violation of § 35-9-2 while in a motor vehicle,
20 the court shall suspend the driver license or driving privilege of any driver of a vehicle who was
21 under the age of twenty-one when the offense occurred, for a period of one year. For any offense
22 under this section, the court may issue an order permitting the person to operate a motor vehicle
23 for purposes of the person's employment, attendance at school, or attendance at counseling
24 programs.

1 Notwithstanding the provisions of chapters 26-7A, 26-8A, 26-8B, and 26-8C, the Unified
2 Judicial System shall notify the Department of Commerce and Regulation of any conviction or
3 adjudication for a violation, while in a motor vehicle, of § 35-9-2 or chapter 32-23. The period
4 of suspension shall begin on the date the person's suspended driver license is received by the
5 court or the Department of Commerce and Regulation. At the expiration of the period of
6 suspension, a person may make application to have the license reinstated and pay the license fee
7 as prescribed in § 32-12-47.1.

8 Section 12. That § 26-7A-15 be amended to read as follows:

9 26-7A-15. The officer or party who takes a child into temporary custody, with or without
10 a court order, except under a court order issued during a noticed hearing after an action has been
11 commenced, shall immediately, without unnecessary delay in keeping with the circumstances,
12 inform the child's parents, guardian, or custodian of the temporary custody and of the right to
13 a prompt hearing by the court to determine whether temporary custody should be continued. If
14 the child's parents, guardian, or custodian cannot be located after reasonable inquiry, the officer
15 or party taking temporary custody of the child shall report that fact and the circumstances
16 immediately to the state's attorney. The state's attorney shall notify the child's parents, guardian,
17 or custodian, without unnecessary delay, of the time, date, and place of the temporary custody
18 hearing. The hearing shall be held within forty-eight hours if it concerns any apparent abused or
19 neglected child or if it concerns any apparent delinquent child pursuant to § 26-8C-3 or within
20 twenty-four hours if it concerns ~~any apparent delinquent child pursuant to § 26-8C-3~~ or any
21 apparent child in need of supervision pursuant to § 26-8B-3, excluding Saturdays, Sundays, and
22 court holidays, after taking the child into temporary custody, unless extended by order of the
23 court. Failure to notify the child's parents, guardian, or custodian of the temporary custody
24 hearing is not cause for delay of the hearing if the child is represented by an attorney at the

1 hearing.

2 Section 13. That § 26-7A-20 be amended to read as follows:

3 26-7A-20. If the child is an apparent, alleged, or adjudicated child in need of supervision,
4 after the temporary custody hearing the court shall release the child from temporary custody to
5 the child's parents, guardian, or custodian, with or without restriction or condition or upon
6 written promise of the parents, guardian, or custodian regarding care and supervision of the
7 child, unless the court finds that the child should continue to be held in temporary custody for
8 any of the following reasons:

- 9 (1) The child has failed to comply with court services or a court-ordered program;
- 10 (2) The child is being held for another jurisdiction as a parole or probation violator, as a
11 runaway, or as a child under other court-ordered detention;
- 12 (3) The child has a demonstrated propensity to run away from the child's home, from
13 court-ordered placement outside of the child's home, or from agencies charged with
14 providing temporary care for the child;
- 15 (4) The child is under court-ordered home detention in this jurisdiction;
- 16 (5) There are specific, articulated circumstances which justify the detention for the
17 protection of the child from potentially immediate harm to the child's self or to others;
18 or
- 19 (6) The child is a material witness, the detention is necessary because of implications of
20 tampering with the child, and an affidavit so stating is filed with the court.

21 An apparent, alleged, or adjudicated child in need of supervision may not be placed in
22 detention for longer than twenty-four hours after the temporary custody hearing unless the child
23 has been accused of or has been found in violation of a valid court order.

24 Section 14. That § 26-9-2 be amended to read as follows:

1 26-9-2. When any person is prosecuted under § 26-9-1, and the charge against such person
2 concerns the abuse or neglect of a child, the offense for convenience may be termed contributory
3 abuse or contributory neglect. ~~When~~ If it concerns the delinquency of a child, for convenience
4 it may be termed contributory delinquency. If it concerns a child in need of supervision, for
5 convenience it may be termed contributing to the child's status as a child in need of supervision.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

529I0714

SENATE JUDICIARY COMMITTEE ENGROSSED NO.

SB 206 - 02/19/2003

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

Introduced by: Senator Symens

1 FOR AN ACT ENTITLED, An Act to limit the use of information contained in certain
2 commitment documentation related to drug offenses.

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

4 Section 1. That chapter 34-20A be amended by adding thereto a NEW SECTION to read
5 as follows:

6 The petition for commitment, written application, and written report to the circuit court and
7 the resulting protective custody order required by § 34-20A-70 shall be sealed and may not be
8 used for the purpose of enforcing the provisions of chapter 22-42 and chapter 22-42A against
9 the person being committed. Any law enforcement official or prosecuting attorney may petition
10 the circuit court to examine these documents, and the court may allow such examination upon
11 a showing that the purpose of the examination is not to investigate a violation of chapter 22-42
12 or chapter 22-42A against the person being committed. However, no information contained in
13 the petition for commitment, written application, written report, or protective custody order may
14 be used against the person being committed in any prosecution for a violation of chapter 22-42
15 or chapter 22-42A.



State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

400I0758

SENATE HEALTH AND HUMAN SERVICES COMMITTEE ENGROSSED NO. **SB 216** - 02/19/2003

Introduced by: The Committee on Health and Human Services at the request of the Governor

1 FOR AN ACT ENTITLED, An Act to create a senior citizen prescription drug benefit program.

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

3 Section 1. There is hereby created a senior citizen prescription drug benefit program within
4 the State of South Dakota. The purpose of the program is to negotiate the purchase of
5 prescription drugs to be offered at a reduced cost to the eligible participants. The program shall
6 be open to any resident of the state who is age sixty-five and older and any person meeting the
7 eligibility criteria for a disability as defined in Title II of the Social Security Amendments of 1954
8 as amended to January 1, 2003, excluding those persons eligible for benefits under Title XIX.

9 Section 2. The program shall be administered by the Bureau of Personnel. The commissioner
10 of personnel may enter into agreements with private entities and cooperate with other local,
11 state, or federal agencies to implement the purposes of the program. The commissioner shall
12 promulgate rules pursuant to chapter 1-26 regarding various discounts and incentives on the
13 purchase of pharmaceuticals by or for participating members and regarding dispensing and
14 intervention fees.

15 Section 3. The Bureau of Personnel may contract to create a preferred drug list and negotiate



- 1 pharmaceutical prices for the benefit of participating members and pharmacies.
- 2 Section 4. The provisions of this Act are repealed July 1, 2005.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

400I0757

SENATE EDUCATION COMMITTEE ENGROSSED NO. **SB 220** - 02/18/2003

Introduced by: The Committee on Education at the request of the Governor

1 FOR AN ACT ENTITLED, An Act to establish the Dakota Corps scholarship program, to
2 provide for its funding, to make an appropriation therefor, and to declare an emergency.

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

4 Section 1. The Dakota Corps scholarship program is hereby established within the
5 Department of Education and Cultural Affairs. The purpose of the Dakota Corps scholarship is
6 to encourage South Dakota's high school graduates to remain in South Dakota upon completion
7 of their postsecondary education and to contribute to South Dakota and its citizens.

8 Section 2. Terms used in this Act mean:

- 9 (1) "Department," the Department of Education and Cultural Affairs;
- 10 (2) "Secretary," the secretary of the Department of Education and Cultural Affairs;
- 11 (3) "Eligible institution," a university, college, or technical school that is accredited by the
12 North Central Association of Colleges and Schools and provides instruction from a
13 campus located in South Dakota;
- 14 (4) "Area of critical need," an occupation within South Dakota for certain employers in
15 certain geographical areas as specified by rules promulgated by the department;



1 (5) "Dakota Corps tuition award," an amount not to exceed the maximum tuition and fees
2 for sixteen credit hours at an institution of higher education under the control of the
3 South Dakota Board of Regents.

4 Section 3. In order to be eligible for a Dakota Corps scholarship a person shall:

- 5 (1) Have graduated from an accredited South Dakota high school;
- 6 (2) Apply for a Dakota Corps scholarship within one year of graduation from high school
7 or within one year of the person's release from active duty with an active component
8 of the armed forces if the release is within five years of the person's graduation from
9 high school;
- 10 (3) Have a composite score of 24 or greater on the test administered by American
11 College Testing Program and have graduated from high school with a grade point
12 average of 2.8 or greater on a 4.0 scale;
- 13 (4) Agree in writing to stay in South Dakota and work in an area of critical need for a
14 period of five years following graduation from an eligible institution; and
- 15 (5) Enroll in or be accepted for enrollment by an eligible institution for a course of study
16 leading to a baccalaureate or technical degree from an eligible institution.

17 Section 4. In order to maintain eligibility for a Dakota Corps scholarship a person shall:

- 18 (1) Maintain a 2.8 grade point average on a 4.0 scale and complete at least thirteen credit
19 hours of instruction per semester;
- 20 (2) Attend an eligible institution for eight consecutive spring and fall terms or until the
21 person has earned a baccalaureate or technical degree; and
- 22 (3) Completed fewer than one hundred twenty-eight credit hours of instruction.

23 Section 5. The secretary may award Dakota Corps scholarships only to the extent that funds
24 are available to provide scholarships. If the amount of money in the Dakota Corps scholarship

1 fund is insufficient to provide a Dakota Corps scholarship to all eligible applicants, the secretary
2 shall consider a person's grade point average, composite score on the test administered by the
3 American College Testing Program, and financial need to award a Dakota Corps scholarship.

4 Section 6. If a person has been awarded a Dakota Corps scholarship, the department shall
5 pay the person's tuition and fees not to exceed the Dakota Corps tuition award on behalf of the
6 person to the eligible institution at the time that tuition and fees are normally paid.

7 Section 7. A person who has received a Dakota Corps scholarship is not required to repay
8 any part of the scholarship if within six months of earning a baccalaureate or technical degree the
9 person is continuously employed in South Dakota for a period of sixty consecutive months in an
10 area of critical need.

11 Section 8. If a person who has received a Dakota Corps scholarship does not maintain
12 eligibility as specified in section 4 of this Act, the person shall reimburse the state the amount of
13 Dakota Corps scholarship paid on behalf of the person, excluding any tuition waivers,
14 scholarships, or other financial grants received pursuant to section 7 of this Act, according to a
15 repayment schedule set by the department according to rules promulgated pursuant to chapter
16 1-26.

17 Section 9. If a person who has received a Dakota Corps scholarship does not meet the
18 requirement in section 8 of this Act, the person shall reimburse the state the amount of Dakota
19 Corps scholarship paid on behalf of the person, excluding any tuition waivers, scholarships, or
20 other financial grants received pursuant to section 7 of this Act, to the department according to
21 a repayment schedule set by the department according to rules promulgated pursuant to chapter
22 1-26. The amount of repayment shall be based on the ratio of sixty months minus the number of
23 months a person was continuously employed in an area of critical need to sixty months.

24 Section 10. If a person who has received a Dakota Corps scholarship is unable to maintain

1 eligibility or remain employed in an area of critical need for sixty consecutive months due to
2 factors outside the control of the person, the secretary may waive or delay the repayment
3 provisions of this Act.

4 Section 11. A person who has received a Dakota Corps scholarship shall annually report to
5 the department the person's academic and occupational status on forms prescribed by the
6 department.

7 Section 12. There is hereby created in the state treasury a separate fund known as the Dakota
8 Corps scholarship fund. Money from any source for the purpose of providing to scholarships
9 pursuant to this Act shall be deposited into the Dakota Corps scholarship fund. Any money
10 repaid pursuant to section 9 or 10 of this Act shall be deposited into the Dakota Corps
11 scholarship fund.

12 Section 13. There is hereby continuously appropriated to the department any money in the
13 Dakota Corps scholarship fund for the purpose of providing scholarships pursuant to this Act.

14 Section 14. The secretary shall approve vouchers and the state auditor shall draw warrants
15 to pay expenditures authorized by this Act.

16 Section 15. The department may promulgate rules, pursuant to chapter 1-26, to define
17 occupations and geographical areas as areas of critical need, determine the amount of the Dakota
18 Corps tuition award, establish procedures for the awarding and acceptance of Dakota Corps
19 scholarships, monitor the academic and occupational status of persons who have received a
20 Dakota Corps scholarship, establish financial need criteria, and establish repayment schedules.

21 Section 16. Whereas, this Act is necessary for the support of the state government and its
22 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full
23 force and effect from and after its passage and approval.