



# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

400I0278

HOUSE COMMERCE COMMITTEE ENGROSSED NO.

## HB 1045 - 02/20/2003

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

Introduced by: The Committee on Commerce at the request of the Department of Commerce and Regulation

1 FOR AN ACT ENTITLED, An Act to require resident surplus line brokers to have a bond.

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

3 Section 1. That chapter 58-32 be amended by adding thereto a NEW SECTION to read as  
4 follows:

5 Within thirty days of issuance of a license as a resident surplus line broker and before  
6 procuring any insurance coverage for an insured, the broker shall file with the director, and  
7 thereafter for as long as the license remains in effect the broker shall keep in force, a bond in  
8 favor of the State of South Dakota in the penal sum of two thousand dollars with an authorized  
9 corporate surety approved by the director. The bond shall be conditioned upon the broker  
10 conducting business under the license in accordance with the provisions of this chapter and  
11 promptly remitting the taxes pursuant to §§ 58-32-44 and 58-32-45. No such bond may be  
12 terminated unless at least thirty days' prior written notice of the termination is given to the broker  
13 and filed with the director.



# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

843I0308

SENATE TAXATION COMMITTEE ENGROSSED NO.

**HB 1064** - 03/03/2003

Introduced by: Representatives Peterson (Bill) and Olson (Mel) and Senators Bogue and Moore

1 FOR AN ACT ENTITLED, An Act to revise the property taxes of the general fund of a school  
2 district.

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

4 Section 1. That § 10-12-42 be amended to read as follows:

5 10-12-42. For taxes payable in ~~2003~~ 2004 and each year thereafter, the levy for the general  
6 fund of a school district shall be as follows:

7 (1) The maximum tax levy shall be twelve dollars and ~~ninety~~ eighty-eight cents per  
8 thousand dollars of taxable valuation subject to the limitations on agricultural property  
9 as provided in subdivision (2) of this section, owner-occupied property as provided  
10 for in subdivision (3) of this section, and nonagricultural acreage property as provided  
11 for in subdivision (4) of this section;

12 (2) The maximum tax levy on agricultural property for such school district shall be three  
13 dollars and ~~seventy-four~~ seventy-three cents per thousand dollars of taxable valuation.

14 If the district's levies are less than the maximum levies as stated in this section, the  
15 levies shall maintain the same proportion to each other as represented in the



1 mathematical relationship at the maximum levies;

2 (3) The maximum tax levy for an owner-occupied single-family dwelling as defined in  
3 § 10-13-40, for such school district may not exceed six dollars and ~~two cents~~ one cent  
4 per thousand dollars of taxable valuation. If the district's levies are less than the  
5 maximum levies as stated in this section, the levies shall maintain the same proportion  
6 to each other as represented in the mathematical relationship at the maximum levies;  
7 and

8 (4) The maximum tax levy on nonagricultural acreage property as defined in  
9 § 10-6-33.14, for such school district shall be four dollars and ~~seventy-four~~ seventy-  
10 three cents per thousand dollars of taxable valuation. If the district's levies are less  
11 than the maximum levies as stated in this section, the levies shall maintain the same  
12 proportion to each other as represented in the mathematical relationship at the  
13 maximum levies.

14 All levies in this section shall be imposed on valuations where the median level of assessment  
15 represents eighty-five percent of market value as determined by the Department of Revenue.  
16 These valuations shall be used for all school funding purposes. If the district has imposed an  
17 excess levy pursuant to § 10-12-43, the levies shall maintain the same proportion to each other  
18 as represented in the mathematical relationship at the maximum levies in this section. The school  
19 district may elect to tax at less than the maximum amounts set forth in this section.

# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

915I0243

SENATE COMMERCE COMMITTEE ENGROSSED NO.

**HB 1090** - 03/04/2003

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

Introduced by: Representatives Pederson (Gordon), Fryslie, and Lintz and Senator Vitter

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to motor vehicle fleet  
2 leasing contracts.

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

4 Section 1. That chapter 32-3 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 Motor vehicle fleet leasing contracts containing a terminal rental adjustment provision do not  
7 create a sale or security interest solely because the agreement provides that the rental price may  
8 be adjusted by the amount realized upon sale or other disposition of the motor vehicle or trailer.

9 This section does not apply to vehicles or trailers leased or used primarily for personal, family,  
10 or household purposes.



# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

400I0563

SENATE APPROPRIATIONS COMMITTEE  
ENGROSSED NO. **HB 1095** - 03/03/2003

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

1 FOR AN ACT ENTITLED, An Act to make an appropriation from the general fund for costs  
2 associated with the medicaid program and to declare an emergency.

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

4 Section 1. There is hereby appropriated from the general fund the sum of four million dollars  
5 (\$4,000,000), or so much thereof as may be necessary, to the Department of Social Services to  
6 provide medical services to Title XIX eligible clients in South Dakota in accordance with § 28-6-  
7 1.

8 Section 2. The secretary of the Department of Social Services shall approve vouchers and  
9 the state auditor shall draw warrants to pay expenditures authorized by this Act.

10 Section 3. Should the state prevail in Civ. No. 02-3042 filed in the United States District  
11 court, the proceeds of that lawsuit shall be deposited in the general fund.

12 Section 4. Whereas, this Act is necessary for the support of the state government and its  
13 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full  
14 force and effect from and after its passage and approval.



# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

465I0462

SENATE TAXATION COMMITTEE ENGROSSED NO.

**HB 1110** - 03/03/2003

Introduced by: Representatives McCaulley, Craddock, Cutler, Hennies, Murschel, O'Brien, Peterson (Bill), Rounds, and Thompson and Senators Knudson, Albers, de Hueck, Dempster, Kelly, and Moore

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the expenditure of  
2 proceeds from the county wheel tax.

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

4 Section 1. That § 32-5A-2 be amended to read as follows:

5 32-5A-2. The proceeds from the tax created by this chapter shall be retained by the county  
6 and deposited in the county road and bridge fund, and the revenue may be used only for highway  
7 and bridge supervision, maintenance, and construction. The board of county commissioners shall,  
8 by resolution, establish a means of distributing the revenue generated by this chapter among the  
9 county and the municipalities and townships located within the county.

10 Section 2. That § 32-11-2 be amended to read as follows:

11 32-11-2. The funds credited to the county road and bridge fund pursuant to § 32-11-4.2 shall  
12 be used by the board of county commissioners for grading, constructing, planing, dragging, and  
13 maintaining county highways and also for dragging, maintaining, and grading secondary roads.  
14 Proper equipment for dragging, grading, and maintaining highways, such as graders, tractors,



1 drags, maintainers, and planers may be purchased from such county road and bridge fund. If a  
2 county has a population of fifty thousand or more, up to thirty percent of the proceeds credited  
3 pursuant to § 32-5A-2 in any year may be used for the additional purpose of supervising public  
4 highways, roads, and bridges within the county.

5 Section 3. That § 32-11-4.2 be amended to read as follows:

6 32-11-4.2. The county road and bridge fund is hereby established for the accounting and  
7 safekeeping of highway and bridge funds of the counties for the deposit and receipt of all public  
8 moneys usable for county highway and bridge construction, maintenance, and repair. If a county  
9 has a population of fifty thousand or more, up to thirty percent of the proceeds credited pursuant  
10 to § 32-5A-2 in any year may be used for the additional purpose of supervising public highways,  
11 roads, and bridges within the county. Revenues to be deposited in the fund include:

- 12 (1) Distribution of funds from the local government highway and bridge fund pursuant  
13 to §§ 32-11-34 and 32-11-35;
- 14 (2) Levies under subdivisions 10-12-9(4) and (6);
- 15 (3) Levies for the county highway and bridge reserve fund established pursuant to  
16 § 10-12-13;
- 17 (4) Levies for secondary roads in unorganized territory pursuant to § 31-12-27;
- 18 (5) Levies for the county snow removal and special emergency reserve fund established  
19 pursuant to § 34-5-2;
- 20 (6) Funds collected from motor vehicle licenses and credited to the county pursuant to  
21 subdivision 32-11-4.1(1A);
- 22 (7) Distribution of mobile home license fees pursuant to § 32-5-16.2;
- 23 (8) Distribution of interstate reciprocity and proportional registration of fleets fees  
24 pursuant to § 32-10-35;

1 (9) Proceeds from the wheel tax pursuant to § 32-5A-2;

2 (10) Revenue accruing from the sale of surplus highway equipment to property pursuant

3 to § 6-13-8; and

4 (11) Other revenue received by the county for service or work performed by the county

5 highway department under force account or agreement with other entities.

6 This section does not affect the deposit and use of the special highway fund for township

7 roads established pursuant to subdivision 32-11-4.1(2).

# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

870I0080

SENATE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1147** - 03/03/2003

Introduced by: Representatives Van Etten, Adelstein, Christensen, Craddock, Frost, Glenski, Hunhoff, Kraus, Lange, LaRue, McCoy, Miles, Peterson (Bill), Rave, Rounds, and Weems and Senators Sutton (Duane), Dempster, Knudson, and McCracken

1 FOR AN ACT ENTITLED, An Act to increase the tax on cigarettes and to declare an  
2 emergency.

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

4 Section 1. That § 10-50-3 be amended to read as follows:

5 10-50-3. A tax is imposed, whether or not a sale occurs, at the following rates on all  
6 cigarettes held in this state for sale by any person:

7 Class A, on cigarettes weighing not more than three pounds per thousand, ~~sixteen and~~  
8 ~~one-half~~ twenty-six and one-half mills on each cigarette.

9 Class B, on cigarettes weighing more than three pounds per thousand, ~~sixteen and~~  
10 ~~eight-tenths~~ twenty-six and one-half mills on each cigarette.

11 Section 2. Whereas, this Act is necessary for the support of the state government and its  
12 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full  
13 force and effect from and after its passage and approval.



# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

906I0497

SENATE TAXATION COMMITTEE ENGROSSED NO.

**HB 1157** - 03/03/2003

Introduced by: Representatives Teupel, Adelstein, Hennies, Konold, Madsen, McCoy, Pederson (Gordon), Solum, and Van Etten and Senators Olson (Ed), Duniphan, Ham, McCracken, Schoenbeck, and Vitter

1 FOR AN ACT ENTITLED, An Act to revise the application of the gross receipts tax on visitor  
2 related businesses.

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

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

6 "Restaurant," any establishment where the public is invited to eat, dine, or purchase and carry  
7 out prepared food for immediate consumption.

8 Section 2. That § 10-45D-1 be amended by adding thereto a NEW SUBDIVISION to read  
9 as follows:

10 "Visitor intensive restaurant," any restaurant except any restaurant that does not derive fifty  
11 percent or more of its annual total gross receipts during the months of June, July, August, and  
12 September and has less than fifty-one seats based on the inspection records and license issued  
13 by the Department of Health. No restaurant or licensed food service that is operated in a movie  
14 theater; retail bakery; livestock auction; employee commissary and cafeterias; hospital; school



1 food service, stadium, or gym; college food service, stadium, or gym; military or service club;  
2 and tribal food service facility is, however, included.

3 Section 3. That chapter 10-45D be amended by adding thereto a NEW SECTION to read  
4 as follows:

5 There is hereby imposed a tax of one percent on the gross receipts from the sale of prepared  
6 food and nonalcoholic beverages by any visitor intensive restaurant. Any sale of alcoholic  
7 beverages, service, or parking by a visitor intensive restaurant is exempt from the tax imposed  
8 by this section. The tax imposed by this section on the gross receipts of any visitor-intensive  
9 restaurant shall apply to the gross receipts received by such restaurant during the months of June,  
10 July, August and September.

11 Section 4. That § 10-45D-2 be amended to read as follows:

12 10-45D-2. There is hereby imposed a tax of one percent on the gross receipts from any  
13 lodging establishment, campground, motor vehicle rental, visitor attraction, recreational  
14 equipment rental, recreational service, spectator event, and visitor-intensive business. The tax  
15 imposed by this section on the gross receipts of any visitor-intensive business shall apply to the  
16 gross receipts received by such business during the months of June, July, August, and September.  
17 The tax imposed by this section is in addition to any other tax imposed by chapters 10-45 and  
18 10-46. Tangible personal property, services, and admissions are subject to the tax imposed by  
19 this section only if subject to tax by chapters 10-45 and 10-46.

20 Section 5. That § 10-45D-3 be amended to read as follows:

21 10-45D-3. The revenue from the tax imposed by § 10-45D-2 shall be deposited in the  
22 tourism promotion fund created in § 1-42-31. Fifty percent of the revenue collected from tax  
23 imposed by section 3 of this Act on restaurants shall be disbursed by the Department of Tourism  
24 to the four officially recognized geographic tourism regions in South Dakota. The four regions

1 are southeast South Dakota tourism region, the glacial lakes and prairies tourism region, the  
2 great lakes of South Dakota tourism region, and the Black Hills Badlands and lakes tourism  
3 region. The disbursement to each region shall be in proportion to the amount of such tax revenue  
4 generated by restaurants within each respective tourism region. The Department of Tourism shall  
5 ensure that all disbursements to the regions are used exclusively for regional tourism marketing.  
6 The Department of Tourism shall promulgate rules, pursuant to chapter 1-26, to ensure the  
7 expenditure of funds are in compliance with this section.

# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

536I0412

SENATE TRANSPORTATION COMMITTEE

ENGROSSED NO. **HB 1174** - 03/04/2003

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

Introduced by: Representatives Sebert, Bartling, Burg, Elliott, Engels, Fryslie, Juhnke, Lintz, Rhoden, Teupel, and Valandra and Senators Duenwald, Apa, Diedrich (Larry), Duxbury, Jaspers, Koetzle, Koskan, Moore, and Symens

1 FOR AN ACT ENTITLED, An Act to prohibit the limiting of certain gasoline sales.

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

3 Section 1. That chapter 37-2 be amended by adding thereto a NEW SECTION to read as  
4 follows:

5 No person may limit the quantity of gasoline sold or offered for sale from a motor fuel pump  
6 to any one customer to a quantity less than the entire supply owned or possessed by the seller  
7 for which the seller is authorized to sell at the place of such sale or offering for sale. A violation  
8 of this section is a Class 2 misdemeanor.



# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

770I0707

SENATE EDUCATION COMMITTEE ENGROSSED NO.

## HB 1191 - 02/27/2003

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

Introduced by: Representative McCaulley and Senator Olson (Ed)

1 FOR AN ACT ENTITLED, An Act to provide for the distribution of certain money  
2 appropriated as state aid to general education.

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

4 Section 1. The secretary of the Department of Education and Cultural Affairs shall distribute  
5 any money, not to exceed seven million three hundred seven thousand eight hundred ninety-six  
6 dollars (\$7,307,896) appropriated as state aid to general education by section 12 of chapter 4  
7 of the 2002 Session Laws which is not distributed as state aid to general education pursuant to  
8 the formula in chapter 13-13 to South Dakota's public school districts.

9 Section 2. For purposes of this Act, average daily membership means average daily  
10 membership as defined in § 13-13-10.1 for school fiscal year 2002.

11 Section 3. Each school district's share of the distribution provided for in section 1 of this Act  
12 is determined according to the following calculations:

13 (1) Divide each school districts average daily membership by the statewide average daily  
14 membership;

15 (2) Multiply the quotient obtained by calculation (1) by the total amount of money



1 identified for distribution pursuant to section 1 of this Act.

2 Section 4. This Act is effective on June 25, 2003.

# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

445I0703

SENATE TAXATION COMMITTEE ENGROSSED NO.

## HB 1232 - 03/04/2003

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

Introduced by: Representatives Madsen, Michels, and Teupel and Senator Apa

1 FOR AN ACT ENTITLED, An Act to permit the Governor to exempt certain sales and use  
2 taxes in times of disaster and to declare an emergency.

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

4 Section 1. That chapter 33-15 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 The Governor may, by executive order, exempt from the provisions of §§ 10-45-70 and 10-  
7 46-57 and the computation of the tax imposed by such sections for the movement of  
8 commodities and equipment in the event of disaster or impending disaster from any cause to the  
9 extent that the livestock population will be deprived of necessary and essential food supplies and  
10 equipment.

11 Section 2. Whereas, this Act is necessary for the immediate preservation of the public peace,  
12 health, or safety, an emergency is hereby declared to exist, and this Act shall be in full force and  
13 effect from and after its passage and approval.



# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

664I0708

SENATE JUDICIARY COMMITTEE ENGROSSED NO.

## HB 1258 - 03/03/2003

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

Introduced by: Representatives Cutler, Cradduck, Gillespie, O'Brien, and Williamson and  
Senators Olson (Ed), Dempster, Duxbury, and Schoenbeck

1 FOR AN ACT ENTITLED, An Act to allow telecommunications companies and motor carriers  
2 to appear before the Public Utilities Commission without legal counsel in certain cases, to  
3 require subscriber authorization of certain automatic renewal provisions in  
4 telecommunications service contracts, and to authorize certain rule making.

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

6 Section 1. That chapter 49-13 be amended by adding thereto a NEW SECTION to read as  
7 follows:

8 In any complaint to the commission by any person claiming to be damaged by any  
9 telecommunications company or motor carrier in which damages in the amount of three thousand  
10 dollars, or less, are claimed, any corporation, cooperative corporation, limited liability company,  
11 or limited liability partnership may represent itself through a designated employee without any  
12 requirement of representation by legal counsel.

13 Section 2. That § 49-31 be amended by adding thereto a NEW SUBDIVISION to read as  
14 follows:



1        In addition to the authorizations for types of service required by § 49-31-92, any contract  
2        for a service enumerated in that section for a term greater than one year which contains a  
3        provision for automatic renewal shall contain a separate authorization from the  
4        telecommunications service subscriber specific to that provision. The telecommunications service  
5        subscriber's authorization shall be evidenced either by a written authorization signed by the  
6        subscriber or by the use of an independent third-party verification company which complies with  
7        the provisions of §§ 49-31-90 and 49-31-91, or by any other means authorized by the  
8        commission. A subscriber is not liable for any charges imposed by a telecommunications  
9        company that bills for a service based on an unauthorized automatic renewal of a contract for  
10       service. In addition, the telecommunications company that initiates the billing based on an  
11       unauthorized renewal shall pay to the subscriber one thousand dollars. The commission may  
12       promulgate rules pursuant to chapter 1-26 concerning procedures, requirements, and standards  
13       for evidencing a telecommunications service subscriber's authorization provided in this section.

# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

400I0755

## SENATE APPROPRIATIONS COMMITTEE ENGROSSED NO. **HB 1280** - 03/03/2003

Introduced by: The Committee on Appropriations at the request of the Governor.

1 FOR AN ACT ENTITLED, An Act to make an appropriation for the planning, design,  
2 construction, renovation, and improvement of certain corrections facilities and to declare an  
3 emergency.

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

5 Section 1. There is hereby authorized in other fund expenditure authority the sum of five  
6 hundred eighty-five thousand thirty-five dollars (\$585,035), and in federal expenditure authority  
7 the sum of eleven million seven hundred ninety-nine thousand ninety dollars (\$11,799,090), or  
8 so much thereof as may be necessary, to the Department of Corrections for the construction,  
9 completion, furnishing, equipping, and maintaining of correctional facilities including  
10 architectural and engineering services, plumbing, water, sewer, electric facilities, site acquisition  
11 and preparation, construction of sidewalks and driveways, and landscaping the grounds of the  
12 facilities.

13 Section 2. The projects authorized pursuant to section 1 of this Act are an addition to the  
14 Jameson Annex of the South Dakota State Penitentiary, Sioux Falls; a housing unit, laundry and  
15 upgraded food service facilities at the Springfield Correctional Facility; a trusty unit in the Black



1 Hills; demolition of Old Main Hall at the Springfield Correctional Facility; security enhancements  
2 and upgrades; and perimeter fencing at Department of Corrections facilities.

3 Section 3. The design and construction of the buildings shall be under the general charge and  
4 supervision of the Bureau of Administration as provided in chapter 5-14.

5 Section 4. The Bureau of Administration and the Department of Corrections shall approve  
6 vouchers and the state auditor shall draw warrants to pay expenditures authorized by this Act.

7 Section 5. The other funds authorized pursuant to section 1 of this Act may be used as  
8 matching funds for federal sources of revenue.

9 Section 6. Any amounts appropriated in this Act not lawfully expended or obligated by  
10 June 30, 2007, shall revert in accordance with § 4-8-21.

11 Section 7. Whereas, this Act is necessary for the support of the state government and its  
12 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full  
13 force and effect from and after its passage and approval.

# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

400I0207

## HOUSE ENGROSSED NO. **SB 23** - 02/24/2003

Introduced by: The Committee on Agriculture and Natural Resources at the request of the  
Department of Agriculture

1 FOR AN ACT ENTITLED, An Act to grant counties greater authority to prohibit the use of  
2 fireworks during periods of extreme fire danger.

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

4 Section 1. That § 34-37-19 be amended to read as follows:

5 34-37-19. Any county may, by resolution, regulate or prohibit the use of fireworks outside  
6 the boundaries of any municipality in those areas where the fire danger, as determined by use of  
7 the rangeland fire index as established by rule promulgated pursuant to chapter 1-26, by the  
8 secretary of agriculture ~~or his designee~~, has reached the extreme category in that county ~~for two~~  
9 ~~consecutive days~~ during the period from June twentieth ~~through June twenty-seventh~~ to July  
10 fifth, inclusive. During such period, the county's action is suspended if the rangeland fire index  
11 falls below the very high category and shall again become effective if the rangeland fire index  
12 reaches the extreme category.



# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

400I0554

## HOUSE ENGROSSED NO. **SB 80** - 02/26/2003

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

1 FOR AN ACT ENTITLED, An Act to establish the Richard Hagen-Minerva Harvey memorial  
2 scholarship program and to make an appropriation therefor.

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

4 Section 1. Pursuant to the donation and intent of Minerva I. Harvey, deceased August 25,  
5 1999, as expressed by Article 2 of her Last Will and Testament and presented for probate in the  
6 State of New Jersey, Gloucester County Surrogate's Court, there is hereby established within the  
7 Department of Education and Cultural Affairs the Richard Hagen-Minerva Harvey memorial  
8 scholarship program.

9 Section 2. The Richard Hagen-Minerva Harvey memorial scholarship program shall be  
10 administered by a five-member board named the Richard Hagen-Minerva Harvey Memorial  
11 Scholarship Board which is hereby established. The members shall be appointed by the Governor  
12 for a term of five years, except that the initial appointments shall be for periods of one, two,  
13 three, four, and five years. The Governor shall appoint one member as the temporary chair of the  
14 board. The board shall elect officers at its first meeting. The board shall meet no more than four  
15 times a year, not including telephonic conferences, as may be necessary to complete its  
16 responsibilities as prescribed by this Act. No more than three members of the board may be of



1 the same political party. At least two members of the board shall be enrolled members of a tribe  
2 located in South Dakota. A majority of the board shall be present either personally or  
3 telephonically to constitute a quorum.

4 Section 3. In order to be eligible for a Richard Hagen-Minerva Harvey memorial scholarship  
5 award, a student shall:

- 6 (1) Have graduated from a South Dakota accredited high school;
- 7 (2) Have met high school graduation requirements established by rules promulgated  
8 pursuant to chapter 1-26 by the Department of Education and Cultural Affairs;
- 9 (3) Attend a public or nonpublic accredited university, college, or technical institute  
10 located in South Dakota; and
- 11 (4) Be an enrolled member, or lineal descendant of an enrolled member, of a tribe whose  
12 reservation is located in whole or part in South Dakota.

13 Section 4. Scholarship award payments shall be made to the institution at the beginning of  
14 the fall or spring semester on behalf of the eligible student who has received a Richard Hagen-  
15 Minerva Harvey memorial scholarship. The amount of the award is as follows:

- 16 (1) Not less than one thousand dollars for the first year of attendance;
- 17 (2) Not less than one thousand dollars for the second year of attendance;
- 18 (3) Not less than one thousand five hundred dollars for the third year of attendance; and
- 19 (4) Not less than two thousand five hundred dollars for the fourth year of attendance.

20 Section 5. The board may award no more than seven scholarships per year.

21 Section 6. In order to maintain eligibility, a student who has been awarded a Richard Hagen-  
22 Minerva Harvey memorial scholarship shall:

- 23 (1) Maintain a cumulative 2.5 grade point average on a 4.0 grade point scale;
- 24 (2) Be continuously enrolled for the fall and spring semesters in a public or nonpublic

1 accredited university, college, or technical institution; and

2 (3) Complete the equivalent of at least fourteen credit hours of instruction per semester.

3 Section 7. If factors beyond the control of a student who has been awarded a Richard Hagen-  
4 Minerva Harvey memorial scholarship prevent the student from meeting the requirements in  
5 section 6 of this Act, the board may temporarily waive the requirements of section 6 of this Act  
6 as eligibility criteria.

7 Section 8. The Department of Education and Cultural Affairs shall provide necessary support  
8 services to the board created by this Act.

9 Section 9. There is hereby continuously appropriated to the Department of Education and  
10 Cultural Affairs any other fund expenditure authority necessary for the department to accept and  
11 expend money the department may receive from any source for the purpose for providing a  
12 Richard Hagen-Minerva Harvey memorial scholarship.

13 Section 10. The secretary of the Department of Education and Cultural Affairs shall approve  
14 vouchers and the state auditor shall draw warrants to pay expenditures authorized by this Act.

15 Section 11. The Department of Education and Cultural Affairs may promulgate rules  
16 pursuant to this Act and chapter 1-26 to accept applications for a Richard Hagen-Minerva  
17 Harvey memorial scholarship, establish criteria to award a Richard Hagen-Minerva Harvey  
18 memorial scholarship, and to maintain eligibility for a Richard Hagen-Minerva Harvey memorial  
19 scholarship.

# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

508I0503

## HOUSE ENGROSSED NO. **SB 121** - 03/03/2003

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

Introduced by: Senators de Hueck, Abdallah, Apa, Duenwald, Duniphan, Olson (Ed), Sutton (Dan), and Sutton (Duane) and Representatives Frost, Garnos, Juhnke, Konold, Lintz, McCaulley, Murschel, Nesselhuf, O'Brien, Sigdestad, and Teupel

1 FOR AN ACT ENTITLED, An Act to revise certain penalties for violations relating to alcoholic  
2 beverage licenses.

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

4 Section 1. That § 35-2-10.1 be amended to read as follows:

5 35-2-10.1. No retail license may be revoked or suspended because of a violation of any  
6 statute, ordinance, rule, or regulation prohibiting the sale or service of any alcoholic beverage  
7 to a person under the age of twenty-one years if the violation was committed by an employee or  
8 agent of the licensee and: the licensee has not had more than two violations of any statute,  
9 ordinance, rule, or regulation prohibiting the sale or service of an alcoholic beverage to a person  
10 under the age of twenty-one years on the premises where the violation occurred in the previous  
11 twenty-four months.

12 ~~— (1) — The licensee did not see the violation occur;~~

13 ~~— (2) — The employee or agent has been certified by a nationally recognized training program~~  
14 ~~approved by the Department of Revenue that provides instruction on techniques to~~



1 prevent persons under the age of twenty-one years from purchasing or consuming  
2 alcoholic beverages;

3 ~~(3) The licensee has a written policy requiring the licensee's employees or agents to~~  
4 ~~examine the driver's license or other age-bearing identification document of any~~  
5 ~~person who appears to be under the age of twenty-one years before selling or serving~~  
6 ~~any alcoholic beverage to that person, and the employee or agent has agreed in~~  
7 ~~writing to abide by the policy;~~

8 ~~(4) The employee or agent has not been convicted of a similar violation within the past~~  
9 ~~twelve months; and~~

10 ~~(5) The licensee has not had any prior violation of any statute, ordinance, rule, or~~  
11 ~~regulation prohibiting the sale or service of an alcoholic beverage to a person under~~  
12 ~~the age of twenty-one years on the premise where the violation occurred in the~~  
13 ~~previous twelve months.~~

14 If the licensee meets the requirements of the conditions provided by this section, the secretary  
15 shall impose a civil penalty of five hundred dollars for a first violation and one thousand dollars  
16 for a second violation. However, if the employee or agent has not been certified by a nationally  
17 recognized training program approved by the Department of Revenue that provides instruction  
18 on techniques to prevent persons under the age of twenty-one years from purchasing or  
19 consuming alcoholic beverages, the secretary shall impose a civil penalty of one thousand dollars  
20 for a first violation and two thousand dollars for a second violation.

21 A licensee may request an administrative hearing pursuant to chapter 1-26 to contest the  
22 imposition of a civil penalty.

# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

633I0625

HOUSE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **SB 123** - 02/27/2003

Introduced by: Senators Koskan, Apa, Dennert, Duniphan, LaPointe, and Olson (Ed) and  
Representatives Juhnke and McCaulley

1 FOR AN ACT ENTITLED, An Act to revise the definition of residence for registration  
2 purposes.

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

4 Section 1. That § 12-1-4 be amended to read as follows:

5 12-1-4. For the purposes of this title, "~~residence~~" ~~shall be~~ the term, residence, means the  
6 place in which a person has fixed his or her habitation and to which, ~~whenever he is absent, he~~  
7 ~~has the intention of returning~~ the person, whenever absent, intends to return.

8 A person who has left ~~his~~ home and gone into another state or territory or county of this  
9 state for a temporary purpose only ~~shall not be considered to have lost his~~ has not changed his  
10 or her residence.

11 A person ~~shall be~~ is considered to have gained a residence in any county or municipality of  
12 this state in which ~~he~~ the person actually lives, ~~providing such~~ if the person has no present  
13 intention ~~to remove himself therefrom~~ of leaving and has actually resided in South Dakota for  
14 at least thirty consecutive days.

15 If a person moves to another state, or to any of the other territories, with the intention of



- 1 making it his or her permanent home, ~~he shall be considered to have lost his~~ the person thereby
- 2 loses residence in this state.

# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

258I0523

HOUSE TAXATION COMMITTEE ENGROSSED NO.

**SB 133** - 02/25/2003

Introduced by: Senators Duenwald, Abdallah, and Dempster and Representatives Teupel, Davis, Hackl, Juhnke, Lintz, Peterson (Jim), and Rhoden

1 FOR AN ACT ENTITLED, An Act to permit the county levy and rural fire protection district  
2 levy to be increased for fire fighting purposes.

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

4 Section 1. That chapter 10-13 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 Notwithstanding the provisions of § 10-13-35, any county that levies a property tax for fire  
7 fighting pursuant to § 34-31-3 or rural fire protection district that levies a property tax for fire  
8 fighting pursuant to § 34-31A-22 may increase the total amount of revenue payable from such  
9 taxes on real property. This increase may be made to the taxes payable in either 2004 or 2005,  
10 or both. For taxes payable in 2006, and each year thereafter, the total amount of revenue payable  
11 from taxes on real property pursuant to §§ 34-31-3, 34-31A-21, and 34-31A-32 may increase  
12 no more than the amount provided in §§ 10-13-35 to 10-13-36, inclusive.



# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

444I0525

## HOUSE ENGROSSED NO. **SB 145** - 02/24/2003

Introduced by: Senators Sutton (Duane), Dennert, Duxbury, Moore, Sutton (Dan), and Symens and Representatives Burg, Elliott, Frost, Hundstad, and Novstrup

1 FOR AN ACT ENTITLED, An Act to revise certain Central Plains Water Development District  
2 boundaries.

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

4 Section 1. That § 46A-3A-2 be amended to read as follows:

5 46A-3A-2. The Central Plains Water Development District is hereby established. The Central  
6 Plains Water Development District includes all of ~~Hand County; Franklin, Union, Banner, Spring~~  
7 ~~Lake, Illinois, Eden, Valley, Douglas, Washington, Loomis, Lincoln, William Hamilton,~~  
8 ~~Holabird, Highmore, and Bramhall townships in Hyde County; Peoria, Mentor, Bryon, Logan,~~  
9 ~~Blunt, Bretton, Harrold, Buckeye, Dry Run, and Canning townships in Hughes County; Lake and~~  
10 ~~Elk townships in Sully County; Enterprise, Freedom, Emerson, Fairview, Saratoga, Pulaski,~~  
11 ~~Myron, Devoe, Wesley, Bryant, Tamworth, Lafoon, Centerville, Pioneer, Orient, Arcade,~~  
12 ~~Hillsdale, and Zell townships in Faulk County; Exline, Redfield, Lodi, Frankfort, Lake, Tulare,~~  
13 ~~Crandon, Lincoln, Buffalo, Garfield, Belmont, and Cornwall townships in Spink County; Nance,~~  
14 ~~Bonilla, Altoona, Pleasant View, Whiteside, Allen, Broadland, Fairfield, Iowa, Wessington,~~  
15 ~~Wolsey, Hartland, Theresa, Valley, Sand Creek, Vernon, Dearborn, Clyde, Custer, Burr Oak,~~



1 ~~Kellogg, Carlyle, Grant, and Clifton townships in Beadle County; Faulk, Hand, Hughes, Hyde,~~  
2 and Sully counties and all municipalities that lie wholly or partially within the included area or  
3 that are contiguous to the included area.

# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

534I0490

HOUSE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **SB 165** - 02/27/2003

Introduced by: Senators Diedrich (Larry), Brown, Dempster, Olson (Ed), and Reedy and  
Representatives Solum, Kroger, and Murschel

1 FOR AN ACT ENTITLED, An Act to establish the United States census estimates as the basis  
2 upon which liquor licenses may be issued.

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

4 Section 1. That § 35-4-11 be amended to read as follows:

5 35-4-11. If not fixed by ordinance, the governing board of any municipality may on or before  
6 the first of September in each year, by resolution, determine the number of on-sale and off-sale  
7 licenses it will approve for the ensuing calendar year, and the fees to be charged for the various  
8 classifications of licenses. The number of on-sale licenses issued may not exceed three each for  
9 the first one thousand of population or fraction thereof and not exceed one each of such licenses  
10 for each additional one thousand five hundred of population or fraction thereof. The number of  
11 licenses allowable may not be less than the total number of licenses allowable or issued as of  
12 July 1, 1981. The municipal governing board shall at such meeting establish the fee for on-sale  
13 licenses pursuant to subdivisions 35-4-2(4) and (13). ~~Such~~ The fee shall apply applies to all such  
14 on-sale licenses issued in the ensuing calendar year. The quotas established in this section do not  
15 apply to licenses issued pursuant to subdivisions 35-4-2(16) and (17).



1        For the purposes of this section, population is equal to ninety percent of the population  
2 estimates published by the United States Census Bureau for each even-numbered year, except  
3 for the decennial year. For a decennial year, population is equal to the amount determined by the  
4 decennial federal census. No license issued pursuant to this section which exceeds the number  
5 of licenses that would have been issued upon the decennial federal census may be denied solely  
6 by reason that the license exceeds the number of licenses authorized by the decennial federal  
7 census.

# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

400I0759

## HOUSE STATE AFFAIRS COMMITTEE ENGROSSED NO. **SB 202** - 02/26/2003

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; and

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.