

## South Dakota Codified Laws Related to Government Operations and Audit Committee July 2017

### ***Committee Responsibility and Authority***

2-6-2. Composition and appointment of Government Operations and Audit Committee--Duties and reports--Assistance. There shall be appointed at each regular session of the Legislature a Government Operations and Audit Committee of ten, consisting of five members of the Senate appointed by the president pro tempore of the Senate, one of whom shall be a member of the Judiciary Committee, and five members of the House of Representatives appointed by the speaker of the house, one of whom shall be a member of the Judiciary Committee, for the purpose of inquiry and review of any phase of the operations and the fiscal affairs of any department, institution, board, or agency of the state, to review any findings of abuse or neglect in a juvenile corrections facility, to make a continuing study of the operation of the state's correctional system, and to make a detailed report to the Senate and House of Representatives and submit a copy of its report to the appropriation committee of each house of the Legislature at the next succeeding session of the Legislature or any special session of the Legislature upon request of the body.

The Department of Legislative Audit shall provide assistance, including clerical help, to the committee upon request.

2-6-4. Investigative powers of Government Operations and Audit Committee. The Government Operations and Audit Committee may examine all records and vouchers, summon witnesses, and thoroughly examine all expenditures and the general management of each department.

2-6-4.1. Report may be required where audit finding reoccurs--Contents of report. If an audit report of any department, institution, board, or agency of the state includes an audit finding that also occurred in an immediately preceding year, the Government Operations and Audit Committee may require the department, institution, board, or agency to present a report, as part of its budget hearing, during the succeeding legislative session. The report to the Appropriations Committees shall include the reasons for not implementing the audit recommendations and a corrective action plan.

2-7-6.1. Committee introduction of bills and resolutions. No bill or joint resolution may be introduced in either house of the Legislature by any committee thereof, except:

- (1) A bill or a joint resolution introduced by any standing committee of either house;
- (2) A bill or joint resolution referred to the Legislature from an interim committee of the State Legislative Research Council;
- (3) A bill or joint resolution introduced at the request of the interim Rules Review Committee, the interim Government Operations and Audit Committee, the interim Retirement Laws Committee, the interim Joint Bonding Review Committee, and the interim State-Tribal Relations Committee by one or more committee members upon majority vote of the interim committee; or
- (4) A bill or joint resolution introduced at the request of the Governor, an executive agency or of the chief justice of the Supreme Court.

The committee shall obtain a written request for such introduction from either the council, the Governor, department head of an executive agency, a constitutional officer or board, or the chief justice and shall retain such request in its file. Committee bills introduced on behalf of a department head of an executive agency, a constitutional officer or board may be introduced by the chairman without a vote of

the committee for purposes of prefiling. Nothing in this section prohibits one or more legislators from introduction of a bill or a joint resolution.

### ***Building South Dakota Program Reports***

1-16G-49. Annual report to Government Operations and Audit Committee. Each department administering the funds received from § 1-16G-48 shall report annually to the Government Operations and Audit Committee about the operations and results of the building South Dakota fund.

### ***Obligation Recovery Center Reports***

1-55-16. Annual report to Government Operations and Audit Committee. The center shall annually report after conclusion of the prior fiscal year to the Government Operations and Audit Committee concerning the activity of the center including the number of debts referred to the entity, the annual amount and nature of the debt obligations recovered by the center, the number of debts referred from the center to private collection agencies and the results of those referrals, and the costs and expenditures incurred by the center.

### ***Board of Internal Control Report***

1-56-7. Annual work plan and report. The board shall create an annual work plan and report which shall be presented to the Governor and the Government Operations and Audit Committee.

### ***Performance Management Review Process***

2-6-35. Government Operations and Audit Committee to implement performance management review process. The Government Operations and Audit Committee shall develop and implement a performance management review process that provides the Legislature with a consistent system to evaluate the efficiency and effectiveness of state agencies and to provide additional government transparency and accountability to the public.

2-6-37. Schedule of performance management review by Government Operations and Audit Committee. The Government Operations and Audit Committee shall establish a schedule whereby the committee reviews the performance management of each state agency at least once every three years. The performance management review shall include the following:

(1) The strategic goals of each agency with specific, quantifiable outcomes and measurements to track progress toward those goals;

(2) A description of how the resources allocated to the agency's programs and strategies will result in the agency's defined outcomes; and

(3) Identification of the performance measurements that will be used to determine if the agency is achieving desired outcomes.

2-6-38. Agency report highlighting performance measures showing progress toward desired outcomes. After the Government Operations and Audit Committee has completed a performance management review of a state agency, and the committee has approved the agency's desired outcomes and

accompanying performance measures, the agency shall provide the committee with a report highlighting up to six of the performance measures that show the progress being made toward the desired outcomes. The report shall be updated by the agency annually and submitted to the committee no later than November fifteenth. Each agency report shall include the source of the information and references to where legislators can obtain further information.

2-6-39. Annual compiled report presented to legislators--Website. The Legislative Research Council shall compile the reports provided pursuant to § 2-6-38, and distribute a compiled report to the chair and vice chair of the Government Operations and Audit Committee. During the first week of the legislative session each year, members of the Government Operations and Audit Committee shall present and review the compiled report with legislators in each legislative body. Individual reports may also be distributed to the chair of any standing committee of the Legislature as determined by the chair of the Government Operations and Audit Committee.

To ensure public accountability, the Legislative Research Council shall develop a website that contains the compiled report and the references where further information can be located.

### ***Conflict of Interest Waiver Authorizations Reports***

3-23-3. Circumstances under which state authority, board, or commission may authorize member to derive direct benefit from contract. Any elected or appointed state authority, board, or commission may authorize an authority, board, or commission member to derive a direct benefit from a contract if:

- (1) The member has provided full disclosure to the authority, board, or commission, including:
  - (a) All parties to the contract;
  - (b) The member's role in the contract;
  - (c) The purpose and objective of the contract;
  - (d) The consideration or benefit conferred or agreed to be conferred upon each party; and
  - (e) The duration of the contract;
- (2) The authority, board, or commission finds that the terms of the contract are fair, reasonable, and not contrary to the public interest; and
- (3) The authorization is a public record included in the official minutes of the authority, board, or commission, that shall be filed with the auditor-general and attorney general.

The auditor-general shall compile the authorizations and present them annually for review by the Government Operations and Audit Committee. A member who requests an authorization under this section shall make the request prior to entering into any contract that requires disclosure or within forty-five days after entering into the contract. Once disclosed and authorized by the governing board, no further disclosure or authorization is required unless the contract extends into consecutive fiscal years. A contract that extends into consecutive fiscal years requires an annual disclosure but no new authorization is required. If the authority, board, or commission rejects the request for authorization

made by the member, the contract is voidable and subject to disgorgement pursuant to § 3-23-5, or the member may resign from the authority, board, or commission. No member of a state authority, board, or commission may participate in or vote upon a decision of the state authority, board, or commission relating to a matter in which the member derives a direct benefit.

3-23-4. Circumstances under which authority, board, or commission may contract with former member. Within the one-year period prohibiting any contract with an elected or appointed authority, board, or commission member, the authority, board, or commission may approve a former member to contract with the elected or appointed authority, board, or commission if the authority, board, or commission determines that the terms of the contract are fair, reasonable, and are in the best interests of the public.

Any approval given pursuant to this section shall be included in the official minutes of the authority, board, or commission and is a public record. The minutes including the approval shall be filed with the auditor-general and attorney general. The auditor-general shall compile and present any approval annually for review by the Government Operations and Audit Committee.

***Bureau of Human Resources Reports of State Agency Authorizations for Direct Benefit in State Contracts by State Officers and Employees***

5-18A-17.2. Authorization of officer or employee to be a party to or derive direct benefit from contract. A governing body may authorize an officer or employee whose responsibilities include approving, awarding, or administering a contract on behalf of a state agency or supervising any employee who has these responsibilities to be a party to or derive a direct benefit from a contract if:

- (1) The officer or employee has provided full written disclosure to the governing body;
- (2) The governing body has reviewed the essential terms of the transaction or contract and the state officer's or employee's role in the contract or transaction; and
- (3) The transaction and the terms of the contract are fair, reasonable, and not contrary to the public interest.

The authorization shall be in writing. Any authorization given pursuant to this section is a public record. Each authorization shall be filed with the commissioner of the Bureau of Human Resources, who shall compile the authorizations and present them annually for review by the Government Operations and Audit Committee.

5-18A-17.3. Authorization of contract with former officer or employee. Within the one-year period prohibiting any contract with a state agency, the governing body of the state agency may approve a former officer or employee to contract with any state agency if the governing body determines that the transaction and the terms of the contract are fair, reasonable, and are in the best interests of the public. The authorization shall be in writing.

Any approval given pursuant to this section is a public record. Each approval shall be filed with the commissioner of the Bureau of Human Resources, who shall compile the approvals and present them annually for review by the Government Operations and Audit Committee.

***South Dakota High School Activities Association Report***

13-36-4. Delegation of control, supervision, and regulation of high school interscholastic activities to association. The school board of a public school, approved and accredited by the secretary of the

Department of Education, may delegate, on a year to year basis, the control, supervision, and regulation of any high school interscholastic activities to any association which is voluntary and nonprofit if:

(1) Membership in such association is open to all high schools approved and accredited pursuant to this section, including any school that allows participation by students receiving alternative instruction as set forth in § 13-27-3, pursuant to the provisions of this title;

(2) The constitution, bylaws, and rules of the association are subject to ratification by the school boards of the member public school districts and the governing boards of the member nonpublic schools and include a provision for a proper review procedure and review board;

(3) The report of any audit required by § 13-26-5 is made public on the association's website as well as the Department of Legislative Audit's website;

(4) The association complies with the provisions of chapter 1-25 and chapter 1-27. However, any such association, and its employees, meetings, and records, are afforded the same exemptions and protections as a political subdivision or public body is provided under chapter 1-25 and chapter 1-27; and

(5) The association shall report to the Government Operations and Audit Committee annually, or at the call of the chair.

The governing body of a nonpublic school, approved and accredited by the secretary of the Department of Education, or the North Central Association Commission on Accreditation and School Improvement (NCA CASI), or the Association of Christian Schools International (ACSI), or the Association of Classical and Christian Schools (ACCS), or Christian Schools International (CSI), or National Lutheran School Accreditation (NLSA), or Wisconsin Evangelical Lutheran Synod School Accreditation, may also delegate, on a year to year basis, the control, supervision, and regulation of any high school interscholastic activities to any association which is voluntary and nonprofit if membership in such association is open to all high schools approved and accredited pursuant to this section, including any school that allows participation by students receiving alternative instruction as set forth in § 13-27-3, pursuant to the provisions of this title, and if the constitution, bylaws, and rules of the association are subject to ratification by the school boards of the member public school districts and the governing boards of the member nonpublic schools and include a provision for a proper review procedure and review board.

Any association which complies with this section may exercise the control, supervision, and regulation of interscholastic activities, including interscholastic athletic events of member schools. Such association may promulgate reasonable uniform rules, to make decisions and to provide and enforce reasonable penalties for the violation of such rules.

### ***University Centers***

13-48A-7. Annual accountability report to Government Operations and Audit Committee. The Board of Regents and the Board of Education Standards shall each provide to the Government Operations and Audit Committee an annual accountability report as determined by the committee. The annual accountability report provided by the Board of Regents shall include a financial report on each of the university centers located in Pierre, Rapid City, and Sioux Falls as prescribed by the auditor general.

13-51-1.4. Government Operations and Audit Committee review. Commencing in 2017 and every year thereafter, the provisions of § 13-51-1.3 shall be reviewed by the Government Operations and Audit Committee. The committee shall review the appropriateness of the provisions of § 13-51-1.3 and make recommendations to the Legislature regarding any revisions, additions, or deletions to the various conditions contained in § 13-51-1.3. The committee shall, at the same time, conduct a review of each of

the university centers, the off-campus sites in Pierre, Rapid City, and Sioux Falls where courses are being offered, and report the committee findings and recommendations to the Legislature.

### ***Public Officials***

23-3-73. Referral to Government Operations and Audit Committee, secretary of state, or Judicial Qualifications Commission. If an investigation authorized under § 23-3-72 does not reveal sufficient facts to support a criminal prosecution, the Division of Criminal Investigation may determine that no further action is required, or refer the matter to:

- (1) The Government Operations and Audit Committee for review of a matter involving a legislator or legislative employee;
- (2) The secretary of state for a matter involving a candidate for the Legislature or statewide office who shall resolve the matter in a reasonable time; or
- (3) The Judicial Qualifications Commission for a matter involving a judicial officer.

A sworn affidavit alleging any misconduct, breach of statutory duty, or malfeasance shall be signed and sworn to by the affiant, fully state any fact on which the affiant relied and identify any source of factual information.

### ***Juvenile Corrections Monitor Reports***

26-11A-25. Monitor within juvenile corrections system--Primary duty. The Governor may designate a person or entity to serve as the monitor and whose primary responsibility is to protect the rights of persons in the custody or care of juvenile corrections facilities. The person or entity shall be independent of the Department of Corrections and shall be administered by the Department of Human Services, office of the secretary.

26-11A-27. Powers and duties of monitor. The monitor created in § 26-11A-25 shall:

- (1) Investigate incidents of abuse or neglect of such individuals within the juvenile corrections facilities, if the incidents are reported to the monitor or if there is reasonable suspicion to believe that the incidents occurred;
- (2) Access any individual in the custody or care of juvenile corrections facilities and any employee in the employ of the State of South Dakota or any of its political subdivisions;
- (3) Access any records of or relating to any individual in the custody or care of juvenile facilities;
- (4) Provide a semi-annual report to the Governor, the Legislature, the Corrections Commission established by § 1-15-1.13, the secretary of the Department of Human Services, and the secretary of the Department of Corrections. The report shall contain the activities of the monitor for the six-month period immediately prior to the report. Activities shall reflect the number of referrals to the monitor, the number of investigations completed, a brief description of any investigation that resulted in a finding of abuse or neglect, and a summary of other activities performed by the monitor;
- (5) Provide training and assistance to employees of the Department of Corrections in areas within the scope of the monitor's position;
- (6) Review Department of Corrections' policies dealing with juvenile's rights to ensure compliance with federal and state laws, rules, and policy;

(7) Provide reasonable notification of the existence and role of the monitor to all individuals in the custody or care of a juvenile corrections facility and the custodial parent or guardian;

(8) Submit a confidential addendum to each semiannual report to the Government Operations and Audit committee created in § 2-6-2, the Governor, the secretary of the Department of Human Services, and the secretary of the Department of Corrections. This addendum shall contain a description of each case investigated, the specific findings and recommendations of the juvenile corrections monitor, and the Department of Corrections' response to the recommendations.

26-11A-28. Monitor to report findings of abuse or neglect. It shall be the responsibility of the monitor to report immediately, in writing, any findings of abuse or neglect in a juvenile corrections facility to the secretary of the Department of Corrections, the Government Operations and Audit Committee created in § 2-6-2, and the Governor, and to state in the report the facts found by the monitor and the names of any individuals who perpetrated the abuse or neglect.

26-11A-33.1. Confidential report of allegations of abuse and neglect within private contracted facilities. The Department of Corrections shall compile a confidential report of all allegations of abuse and neglect of individuals under the jurisdiction of the Department of Corrections within private contracted facilities and the report shall be provided on a semi-annual basis to the Government Operations and Audit Committee.

### ***911 Coordination Board Report***

34-45-20. Board duties. The board shall:

(1) Evaluate all of the current public safety answering points and systems throughout the State of South Dakota for their capability to adequately and efficiently administer systems;

(2) Develop plans for the implementation for a uniform statewide 911 system covering the entire state or so much as is practicable;

(3) Monitor the number and location of public safety answering points or systems and the use of 911 emergency surcharge funds in their administrative and operational budgets;

(4) Develop criteria and minimum standards for operating and financing public safety answering points or systems;

(5) Develop criteria for the eligibility and amount of reimbursement of recurring and nonrecurring costs of public safety answering points or systems;

(6) Develop criteria for the implementation of performance audits of the use of the 911 fees utilized in the operation of the 911 system. The audit shall be conducted by the Department of Legislative Audit and shall be presented to the board and the Legislature;

(7) Report annually to the Government Operations and Audit Committee about the operations and findings of the board and any recommendations for changes in the surcharges imposed by this chapter and the distribution of the revenue; and

(8) Report annually to the Governor and the Legislature about the operations and findings of the board and any recommendations for changes to 911 service in the state.

### ***State Brand Board Report***

40-18-18. Annual report to Senate and House committees. The State Brand Board shall make an annual report to the Senate and House Committees on Agriculture and Natural Resources and to the Senate and House Government Operations and Audit Committees. The report shall describe and document the activities of the board for the previous calendar year and shall include the following:

- (1) The number and type of livestock that have been inspected during the previous calendar year under the auspices of the board;
- (2) The amount collected in inspection fees for the previous calendar year;
- (3) The number and type of livestock that have been reported lost or stolen during the previous calendar year;
- (4) The number and type of livestock that were placed on hold status pursuant to § 40-21-12 during the previous calendar year if the hold status was not resolved at the livestock auction market and if the hold status was reported to the Brand Board office by the livestock auction market, and the disposition of such cases;
- (5) An accounting for any money paid to owners of livestock that had been placed on hold status;
- (6) An accounting for livestock for which ownership is not established and for any money associated with such livestock that is placed in the livestock ownership inspection and theft prevention fund pursuant to § 40-21-17;
- (7) The number of investigations conducted and the number of convictions obtained;
- (8) Other information requested by the committee or other information that the board deems appropriate to provide to the committee.

The report is due, in writing, for delivery to the committees not later than the first day of the annual legislative session. Each committee may also require the board to present the report in person at a meeting of the committee held during the legislative session.